



REPUBLIC OF KENYA



**Chege v Republic (Criminal Appeal E007 of 2025)  
[2025] KEHC 8989 (KLR) (Appeals) (26 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8989 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYANDARUA  
APPEALS  
CRIMINAL APPEAL E007 OF 2025  
KW KIARIE, J  
JUNE 26, 2025**

**BETWEEN**

**WILLIAM MWANGI CHEGE ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in S.O. Case No. E006 of 2024 of the Senior Principal Magistrate's Court at Engineer by Hon. E. Wanjala –Principal Magistrate)*

**JUDGMENT**

1. William Mwangi Chege, the appellant herein, was convicted of the offence of rape contrary to section 3(1) as read with section 3 (3) of the [Sexual Offences Act](#) No.3 of 2006.
2. The particulars of the offence were that on the 26<sup>th</sup> day of January 2024 at Kahuru in North Kinangop within Nyandarua County, he intentionally and unlawfully caused his penis to penetrate the vagina of C.W.M. without her consent.
3. The appellant was sentenced to serve twenty years' imprisonment. He was aggrieved and has appealed against both conviction and sentence. He was in person and raised grounds of appeal as follows:
  - a. That the learned trial magistrate erred in law and fact by not adequately considering the evidence of consent, despite clear indications of mutual interaction and willingness from the complainant.
  - b. That the learned trial magistrate erred in law and fact by not adequately addressing the inconsistencies in the complainant's testimony regarding her actions and interactions before and after the alleged incident.



- c. The learned trial magistrate erred in law and fact by not adequately considering the context and behavioural indicators that suggest mutual participation and absence of coercion during the interaction between the appellant and the complainant.
  - d. That the learned trial magistrate erred in law and fact by not adequately addressing the issue of motive and potential bias, particularly the evidence suggesting ulterior motives on the part of the complainant’s mother and other witnesses.
  - e. That the learned trial magistrate erred in law and fact by not adequately considering the implausibility of the complainant’s claim that a simple greeting led to her sudden loss of consciousness.
  - f. That the learned trial magistrate erred in law and fact by not adequately addressing the inconsistencies and contradictions in the testimony of prosecution witnesses, particularly regarding the events leading up to and following the alleged assault.
  - g. That the learned trial magistrate erred in law and fact by not adequately examining the medical evidence and examination findings, which raise questions about the nature and cause of the complainant’s injuries and the validity of allegations of drugging.
  - h. That the learned trial magistrate erred in law and fact by not adequately addressing the issue of consent in light of ambiguous circumstances and conflicting testimonies regarding the encounter between the appellant and the complainant.
  - i. That the sentence imposed against me was harsh, as the minimum sentence prescribed for the offence is ten years.
4. The state did not file any grounds of opposition or submissions.
5. This is a first appellate court. As expected, I have analysed and evaluated all the evidence adduced before the lower court. I have concluded, considering I neither saw nor heard any witnesses. I will be guided by the celebrated case of *Okeno vs the Republic* [1972] EA 32.
6. The ingredients of the offence of rape are set out in section 3 of the *Sexual Offences Act*, which states as follows:
- A person commits the offence termed rape if—
- (a) he or she intentionally and unlawfully commits an act which causes penetration with his or her genital organs;
  - (b) the other person does not consent to the penetration; or
  - (c) the consent is obtained by force or by means of threats or intimidation of any kind.
7. C.W.M. (PW1), the complainant, testified that she met the appellant on the 26th of January 2024 at approximately 8 a.m. He introduced himself and stated that he had been watching her for a considerable time. He engaged her in conversation until she arrived at her place of work. As they were parting, he asked for her phone number. She gave him her old number, which was no longer in use.
8. Later that evening, she found the appellant leaning against a vehicle as she returned from an errand. When she greeted him, she was unaware of what had occurred. Gradually, she regained her composure and discovered the appellant beside her; her clothes, including her undergarments, were partially disarrayed. Her bra was unclasped at the back. When she asked the appellant what had happened, he merely laughed. She realised she had been raped.



9. Dr. Patrick Wakahiu (PW4) is a medical officer at Engineer County Hospital. His evidence was that he examined the complainant on the 29<sup>th</sup> day of January 2024. Her inner clothes were bloodstained. The hymen was freshly torn. There were multiple lacerations on the vulva. He concluded that she had been raped.
10. William Mwangi Chege, the appellant, contended in his defence that the sexual intercourse was consensual. He testified that before they agreed to engage in sexual activity, they participated in some romantic acts, including catching butterflies for the complainant. Later, the complainant unzipped his trousers when he wished to answer a call of nature. They then proceeded to some blue gum trees, where they engaged in consensual sexual intercourse.
11. The appellant painted a very romantic encounter with the complainant. The question that begs answers is what transpired to make her accuse him of raping her.
12. M.N.W. (PW2) is the complainant's mother. Her evidence was that her daughter (PW1) returned home at 6.30 p.m. while crying. Upon enquiry, she said the appellant had raped her.
13. Florence Wamucii Mwangi (PW4), who had employed the complainant, testified that she sent her and Nyambura to pick up her child. The complainant returned at about 6 p.m. Her husband asked her where she was, but she did not respond.
14. The conduct of the complainant following the encounter with the appellant does not in any way suggest that the sexual intercourse was consensual. There would be no reason for her to go home in tears if it were. Similarly, she would have had no reason to implicate the appellant if she were a willing participant falsely.
15. In most sexual offences, there are no eyewitnesses. This is why the proviso to section 124 of the [Evidence Act](#) was enacted. It states:

Provided that where in a criminal case involving a sexual offence, the only evidence is that of the alleged victim of the offence, the court shall receive the evidence of the alleged victim and proceed to convict the accused person if, for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth.

Upon reviewing the evidence on record, I have concluded that the learned trial magistrate had no reason to disbelieve the complainant. The appellant raped her.

16. The appellant contended that the sentence was excessive. An appellate court would interfere with the trial court's sentence only where there exists, to a sufficient extent, circumstances entitling it to vary the trial court's order. These circumstances were well illustrated in the case of *Nillson vs Republic* [1970] E.A. 599, as follows:

The principles upon which an appellate court will act in exercising its jurisdiction to review sentences are fairly established. The court does not alter a sentence on the mere ground that if the members of the court had been trying the appellant, they might have passed a somewhat different sentence, and it will not ordinarily interfere with the discretion exercised by a trial Judge unless as was said in *James Vs. Rex* (1950), 18 EACA 147, it is evident that the Judge has acted upon some wrong principle or overlooked some material factor. To this, we would also add a third criterion, namely, that the sentence is manifestly excessive in view of the circumstances of the case. *R Vs Shershewcity* (1912) C.CA 28 T.LR 364.



17. Section 3 (3) of the *Sexual offences Act* provides the sentence for the offence of rape in the following terms:

A person guilty of an offence under this section is liable upon conviction to imprisonment for a term which shall not be less than ten years but which may be enhanced to imprisonment for life.

18. The appellant was sentenced to serve twenty years' imprisonment. The trial magistrate considered the drugging aspect before sentencing the appellant. This court has not been shown that the learned trial magistrate acted upon any incorrect principle or overlooked any material factor. I have no grounds to interfere with the sentence.

19. The appeal is without merit, and I therefore dismiss it.

**DELIVERED AND SIGNED AT NYANDARUA THIS 26<sup>TH</sup> DAY OF JUNE 2025**

**KIARIE WAWERU KIARIE**

**JUDGE**

