



REPUBLIC OF KENYA



KENYA LAW
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**Muigai v Republic (Criminal Case E040 of 2023)
[2024] KEHC 1833 (KLR) (28 February 2024) (Judgment)**

Neutral citation: [2024] KEHC 1833 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E040 OF 2023
SM MOHOCHI, J
FEBRUARY 28, 2024**

BETWEEN

EDWARD KARIUKI MUIGAI APPELLANT

AND

REPUBLIC RESPONDENT

(Edward Kariuki Muigai being aggrieved by the conviction of 20 years by the Honourable M. Kyalo, Senior Resident Magistrate on 11th October 2023 and the sentencing slated for 8th November 2023 in Nakuru C.M. S.O. No.181 of 2019 where the Appellant was charged with the Offence of Defilement contrary to Section 8 (1) (2) and Indecent Act with a minor contrary to Section 11 (1) of the Sexual Offences Act of the Laws of Kenya whereby the Appellant was convicted as guilty, appeals to this Honorable Court.)

JUDGMENT

1. The appeal raised and 12 grounds of appeal including whether there was material contradictions that would vitiate the conviction.
2. The shaky identification of the Appellant and contradiction witness statements.
3. The state has conceded to this appeal that the conviction was unsafe.

This Court accordingly:

1. The Conviction by Hon. Kyalo, S.R.M. dated 11th October, 2023 is hereby quashed.
2. The sentence imposed on the 8th November, 2023 is hereby set aside.
4. The Appellant shall forthwith be set to liberty unless otherwise lawfully held.

It is so ordered.



SIGNED, DATED AND VIRTUALLY DELIVERED AT NAKURU THIS 28TH DAY OF FEBRUARY, 2024.

MOHOCHI S.M
(JUDGE)

