

KENYA / JUDGMENT

NCM v Republic [2026] KEHC 7483 (KLR)

[2026] KEHC 7483 (KLR)**COURT**

High Court

BEFORE

F Andayi

CASE / FILE NUMBER

Criminal Appeal E001 of 2025

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NCM v Republic (Criminal Appeal E001 of 2025) [2026] KEHC 7483 (KLR) (13 April 2026)
(Judgment) Neutral citation:

[2026] KEHC 7483 (KLR) Republic of Kenya In the High Court at Kwale Criminal Appeal E001 of 2025 F Andayi, J April 13, 2026 Between NCM Appellant and The Republic Respondent (Being an appeal from the conviction and sentence delivered on 24th January 2024 and 6th March 2024 respectively by Hon. J. Mutimba (R.M). in Msambweni Magistrates Court S.O. Case No. E038 of 2022)

Judgment

1. The appellant was convicted of the offence of incest contrary to section 20(1) of the Sexual Offences Act (Cap. 63A) Laws of Kenya that on diverse dates between 1st May 2022 and 3rd July 2022 at [Particulars Withheld] village, Mwereni location in Lunga Lunga Sub-County within Kwale County, unlawfully and intentionally caused his penis to penetrate the vagina of GMN who to his knowledge was his daughter aged 14 years. 2. He was also charged in the alternative with committing an indecent act with a child contrary to section 11(1) of the Sexual Offences Act (Cap. 63A) Laws of Kenya that on the same dates, place and time as in the principal charge the appellant unlawfully and intentionally caused his penis to touch the vagina of GMN a child aged 14 years. 3. The appellant pleaded not guilty to the charges and the case proceeded for hearing. The prosecution called four witnesses in support of its case. 4. PW 1, GMN was the complainant and daughter of the appellant. PW 2, EC is the complainant's elder brother and son of the appellant. PW 3, Cpl George Wafula of Mwangulu police station was the one to whom the complainant reported her ordeal on 5th July 2022 and PW 4, Rajab Nasoro, was a clinical officer from Lunga Lunga hospital. He produced the P3 form completed at the hospital by his colleague, Warungu, whom PW 4 said was recuperating at home from a road traffic accident. 5. The appellant DW 1, gave sworn evidence in defence and did not call a witness. He denied committing the offence. 6. Upon evaluating the evidence at the end of the trial, the learned trial magistrate was satisfied that the prosecution had proved the offence of incest against the appellant beyond a reasonable

doubt and thus convicted and sentenced him to thirty years' imprisonment. 7. The appellant was not satisfied with the decision of the trial court and has filed this appeal based on the following undated amended grounds of appeal filed together with his submissions. They are that: a. The learned trial magistrate erred in law and in fact for not considering that the prosecution party failed to prove all the elements which constitute the offence of defilement. b. The learned trial magistrate erred in law and in fact for not observing that the sentencing formula was wrongly approached and it is always determined by the age of the minor and this was not legally established. c. The learned trial magistrate erred in law and in fact for not appreciating that there was no good relationship between the appellant and the minor due to her bad behavior. d. The learned trial magistrate erred in law and in fact for not considering that the prosecution evidence was wholly marred with mass contradictions. e. The learned trial magistrate erred in law and in fact for not considering the appellant's defence evidence which was not vitiated by the prosecution. 8. The appeal was disposed of by way of written submissions filed by the appellant and the respondent. The same are considered in the analysis that follows. 9. This being a first appeal, the court is required to analyze and re-evaluate afresh all the evidence and to draw its own conclusion while bearing in mind that it neither saw nor heard any of the witnesses as per the holding of the Court of Appeal in *Okeno v. Republic* (1972) EA 32 at 36 that; "An appellant on first appeal is entitled to expect the evidence as a whole to be submitted to fresh and exhaustive examination (*Pandya v. R.*, (1957) EA 336) and to the appellate court's own decision on the evidence. The first appellate court must itself weigh conflicting evidence and draw its own conclusions (*Shantital M. Ruwala v. R.*, (1957) E.A. 570). It is not the function of a first appellate court merely to scrutinize the evidence to see if there was some evidence to support the lower court's findings and conclusions; it must make its own findings and draw its own conclusions. Only then can it decide whether the magistrate's findings should be supported. In doing so, it should make allowance for the fact the trial court has had the advantage of hearing and seeing the witnesses, see *Peters v. Sunday Post*, [1958] E.A. 424." 10. This position is recounted variously in other decisions for instance in *Njoroge v Republic* (1987) KLR 19. 11. The prosecution's case was essentially based on what the complainant stated in evidence. 12. It is not disputed that the appellant is the complainant's father. The complainant's mother is divorced from the appellant and is married elsewhere. The appellant has a second wife who however, it appears was also not on good terms with the appellant and so she was not at home most of the time. The appellant therefore stayed with the children most of the time. The complainant had four siblings, PW 2 who was the eldest and two others younger than her. 13. The complainant gave evidence that she was fourteen years old although she did not give her date of birth. She went to school up to class three. She said her father, the appellant, had sexual intercourse with her in spite of her protestations, on about seven occasions between May and July 2022. She could not remember the exact dates but she narrated how some of the incidents unfolded. The incidents would happen when all her siblings were away when the father had sent them either to the farm or the shops. 14. On one occasion, while the siblings and her step-mother were all out, the appellant sent her for water. She took it to him. He then asked her to

remove her clothes, but she declined. He tripped her, and she fell on the floor under the bed. He went ahead and removed her clothes, a biker, panties, and a skirt. He also removed his trousers and underwear then did “tabia mbaya” translated to bad manners to her. She explicitly stated that he inserted his penis into her vagina. She felt pain and cried. She bled from her genital organ. He warned her not to tell anyone, otherwise, if he was imprisoned they would be left alone. However, the complainant told a neighbor called L wife of M who advised her to inform her grandmother, the appellant’s mother. 15. The grandmother stays far from their home. The complainant went and informed her. The grandmother said she did not believe her and promised to come to their home. She also told the complainant that if they had their father imprisoned they should vacate his land and they would not be welcome to her home to live with her. The grandmother came over and asked the appellant about the complainant’s allegations and he denied them. 16. After that, the appellant repeated his acts of forced sexual intercourse with her again. He went on defiling her either during the day or at night a total of seven times and nobody else ever witnessed. Her grandmother had left her with her phone number but when the complainant called her, she never responded. 17. The complainant also reported the incidents to her step-mother who said she would investigate the allegations. She also reported to her elder brother, PW 2 who she said did not believe her. 18. According to the complainant, the family members she was reporting to were not believing her and none took any action to assist her. She reported to their pastor’s wife. She also did not believe her and the wife informed the pastor but they both told her that they had no evidence of the same. 19. Exasperated, the complainant decided to make a report to the police herself. She went to Mwangulu police station where she made a report to PW 3. They went and asked her father about the report and he denied. The police officer took her to hospital where she was examined. 20. In cross-examination, the complainant readily conceded that she had engaged in sexual intercourse with a neighbor, Mwero’s son who was also her elder brother’s friend and that her father beat her over the incident. He then called Mwero and Uje to sort out the issue. She said that her biological mother was called and was present during the discussions. Two meetings were held. She denied that she had also slept with a neighbor called B as was being alleged by someone else. 21. The complainant said that she would talk to her mother on the appellant’s phone but he would not let her move far with it. She told her about the incidents and the mother told her that she would take custody of her. Her mother told the appellant who then beat her. 22. As for using neighbours’ phones, they would require her to purchase airtime first yet she had no money, not even KShs 10/=. She told the appellant in cross-examination that for the three months the incidents happened, he would go to work but on returning he would make her his wife. She said that she bled during the incidents and her clothes were bloodied and each time the appellant would tell her to throw them in the toilet. She said that on the 19th and 20th June 2022 she was suicidal. 23. The complainant further said that the appellant forced her brother, PW 2 to tell him about the complainant’s sexual life. She also said that although the appellant’s brothers and sisters are there, she was scared of informing them and she preferred to inform the grandmother. She also informed mama mkubwa or one of her elder uncle’s wives called Mama U. 24. In his defence the appellant said that he

lived with his second wife and eight children, six of his and two step-children from his second wife. 25. The appellant said that in June 2022, the complainant was stopped from going to church by their pastor for being a bad example to other children because she was engaged in a relationship with a neighbor MB. She also had sexual relationship with another boy. When he asked the complainant about it, she conceded. She informed her biological mother who is married in Ukunda and they warned the complainant about the relationship. The complainant stopped going to school and interventions through her teacher did not bear fruits. In July, the complainant left home for one day only for police to show up with allegations that the appellant had defiled his daughter and they arrested him. 26. The appellant denied that he committed the offence and said he has no clue about the charges he faced. He said that during the meetings they had over the complainant's incidents of sleeping with other men, if her mother was informed that he was sexually molesting her, she would not have left the complainant with him. 27. I have carefully examined and re-evaluated the evidence tendered before the trial court as well as the submissions by the appellant and the respondent in this appeal. The issue for determination is whether or not the prosecution proved beyond a reasonable doubt that the appellant committed incest against the complainant as found by the trial court. 28. Sections 20(1) of the Sexual Offences Act under which the appellant was convicted for the offence of incest provides as follows: Any male person who commits an indecent act or an act which causes penetration with a female person who is to his knowledge his daughter, granddaughter, sister, mother, niece, aunt or grandmother is guilty of an offence termed incest and is liable to imprisonment for a term of not less than ten years: Provided that, if it is alleged in the information or charge and proved that the female person is under the age of eighteen years, the accused person shall be liable to imprisonment for life and it shall be immaterial that the act which causes penetration or the indecent act was obtained with the consent of the female person. 29. In the case of *LOA v Republic* [2020] KECA 927 (KLR) the Court of Appeal considering the ingredients of the offence of incest held that: " We have no doubt at all that for an offence of incest to be proved, pursuant to section 20 of the Sexual Offences Act , the prosecution needs to prove the sex of the victim, the relationship of the victim to the perpetrator, penetration and the age of the victim. The latter requirement is for purposes of sentencing." 30. In addition to the above, the offence will also be proved where it is shown that the culprit committed an indecent act upon the victim. Indecent act is defined under section 2 of the Sexual Offences Act as follows: " indecent act" means any unlawful intentional act which causes— a. any contact between any part of the body of a person with the genital organs, breasts or buttocks of another, but does not include an act that causes penetration; b. exposure or display of any pornographic material to any person against his or her will." 31. The prosecution's case is based on the allegations that the appellant engaged in sexual intercourse with the complainant. If that is proved, it would include aspects of indecent assault under paragraph (a) of the definition above. 32. Ground numbers 1 and 4 of the appeal will be considered together. These are, whether the prosecution proved the elements of the offence of incest and whether the court considered the evidence of the appellant in rebuttal. He submits that the elements of age of the complainant, identification of the

culprit and penetration were not proved. 33. Learned counsel for the respondent on her part submits that all the elements of the offence of incest were proved against the appellant beyond a reasonable doubt. She therefore supports the conviction and sentence of the appellant by the trial court. 34. The complainant was the only witness who testified that the appellant engaged in sexual intercourse with her and the other ingredients of the offence of incest as stated above. She was thus the only eye witness to all the elements of the offence. 35. The manner in which the court should proceed to consider the evidence of a victim in a sexual offence case where the victim is the only witness on any of the ingredients of the offence is provided for in the proviso to section 124 of the Evidence Act (Cap. 80) Laws of Kenya as follows: S. 124. Evidence Act : “ Notwithstanding the provisions of section 19 of the Oaths and Statutory Declarations Act (Cap. 15), where the evidence of the alleged victim is admitted in accordance with that section on behalf of the prosecution in proceedings against any person for an offence, the accused shall not be liable to be convicted on such evidence unless it is corroborated by other material evidence in support thereof implicating him: 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.” 36. The complainant gave sworn evidence. 37. There is no dispute that the complainant is female and that the appellant is her father. There was no appeal on that element of the offence. I find that the same was proved beyond a reasonable doubt and the trial court reached the correct conclusion thereon. 38. The manner in which to proceed to evaluate the evidence of a victim of a sexual offence was explained by the Court of Appeal in the case of Bernard Kebiba vs. Republic [2000] eKLR where it was stated that: “ The law on corroboration in sexual offenses is not in dispute any more in our courts. There is requirement for corroboration in all sexual offenses. It is however, a rule of practice only. Though a strong rule of practice, it has not acquired the force of law. In appropriate circumstances, where the trial court is satisfied that the complainant is speaking nothing but the whole truth, the court may convict without corroboration. In such a situation however, the court must warn itself of the danger of basing a conviction upon uncorroborated evidence of the complainant. Where, however, the court feels that there is need for corroboration, the court must say so expressly in the judgment. The court must then look for corroboration from the evidence led and recorded and if the court finds it, the court must mention it expressly in its judgment. Where the court finds no corroboration after forming the opinion that corroboration is necessary, the benefit of doubt must be given to the accused and acquittal must result.” 39. The issue of reliance on the evidence of a victim when there is lack of corroboration of the victim’s evidence in a sexual offence, has been further explained by the High Court (Odunga, J. as he then was) in the case of Moses Mutahi Mugo v Republic [2022] eKLR. Upon considering various decisions on the matter the learned Judge said thus: “ ... where the trial court is satisfied that the complainant is speaking nothing but the whole truth, the court may convict without corroboration. What is required of the trial court is to be satisfied that the victim is telling the truth. In such a situation however, the court must

warn itself of the danger of basing a conviction upon uncorroborated evidence of the complainant. The fact of the warning must appear in the judgement of the trial court and the record itself must show that the trial court was so satisfied..." 40. From these decisions it emerges that the court is enjoined to evaluate the evidence and determine whether there was corroboration and if there is none whether the court believed that the complainant was telling the truth. In determining the second issue of truthfulness the trial court has to make it expressly clear in the proceedings that the complainant was telling the truth and if so that in the judgment the court warned itself of the danger of relying upon uncorroborated evidence of the complainant. 41. The appellant submits that the case was a frame up by the complainant on some baseless allegations because he had punished her when he received information that she was sleeping around with another boy and a man. 42. Indeed, the complainant readily conceded that she had sexual intercourse with another boy called Moses and another man before. However, the appellant never asked her whether her reporting him to the police was motivated by anger towards him. I therefore find this line of defence to be an afterthought and therefore not of assistance to the appellant. If indeed, he thought that the complainant was motivated by anger or malice, that would have been a serious issue that he would not have forgotten to raise in cross-examination. 43. In any case, the complainant did not just wake up one day and go to make a report to the police. She narrated the ordeals she went through at the hands of her father and even how she reached a point of taking her own life because all the family members and friends she was reporting to, not even the pastor's wife believed her. This is a very unfortunate, yet real situation that girls of the complainant's standing in society go through silently. Nobody wants to believe them yet they are hurting both in body and mind. When she raises the issue, she is reminded that if her father is imprisoned, then she will have plunged the whole family into problems as they will have no one to take care of them and they will be left destitute. That is how selfish human beings can be. That a young girl should bear repeated defilement ordeals by none other than her father in silence because if she dares to report him, the whole family will be against her. 44. The appellant's plea that the complainant framed her in fact is opposite to what could be the true situation that having learned that his daughter was engaging in sexual intercourse he took advantage to molest her, seeing that she was already used to it. So that his constant reminders to her that after all, she was already defiled was meant to silence her into some guilt so that she would not report him. 45. The complainant's courage is however admirable. She never gave up. She kept reporting all the time. She even reported to her step-mother who in order to pacify her promised to investigate the issue but she did not. It was not until the complainant reported to the police that action was taken against the culprit. 46. The appellant's submission that if the complainant's evidence that she bled after the incidents of sexual intercourse was true, she could have presented the evidence of the blood-stained clothes to the people whom she reported to help them believe her was answered by the complainant when she said that he would tell her to dispose of them in the toilet. There was therefore no such evidence for her to present and probably that was why the pastor's wife thought so. All the same, the issue of there being blood-stained clothes or not is not material. The fact is that the consistence with which the

complainant made reports to various people and the final resolve to report to the police is an indication that there was truth in her allegations. 47. PW 2, her brother confirmed that indeed she made such a report to him. The appellant submits that in fact, PW 2 stated in his evidence that the complainant was framing their father. Indeed, he said so but I find that he did more out of fear that he would be seen to be testifying against their father than out of conviction. 48. I am therefore satisfied that the complainant's conduct of reporting the incidents to various people is corroboration of her evidence that the appellant was engaging in sexual conduct with her and this discounts the appellant's submission that her report to the police was tainted by malice. 49. Under the proviso to section 124 of the Evidence Act, there need not be any other eye witness besides the complainant for as long as the court finds that she was telling the truth and also that it warned itself of the dangers of relying on the uncorroborated evidence of the victim. 50. In this case, the learned trial magistrate recorded after the *voire dire* examination of the complainant that she was satisfied the complainant was possessed of sufficient intelligence and understood the concept of honesty. That satisfies the requirement for the trial court to record in the proceedings that the complainant was telling the truth. 51. I am satisfied that the trial court properly evaluated the evidence before arriving at the conclusion that the element of penetration had been proved through the complainant's evidence. 52. Consequently, I am satisfied that all the essential elements of the offence of incest were proved against the appellant beyond a reasonable doubt and his conviction thereon was proper. 53. The final issue for determination is on the sentence meted upon the appellant. The appellant submits correctly that the element of age is of particular importance because it determines the sentence to be meted out for the offence of incest. He submits therefore that there being no evidence of any value to prove the age of the complainant meant that the charge sheet was contrary to the provisions of section 134 of the Criminal Procedure Code (Cap. 75) Laws of Kenya and therefore incurably defective and this caused him prejudice. The said section provides that: "Every charge or information shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the offence charged." 54. On the issue of age, the charge sheet stated that the victim was 14 years old. The complainant testified that she was 14 years old. There was no documentary evidence such as certificate of birth or birth notification produced to support her evidence of her age. In a case of incest, when it comes to sentencing, if the prosecution proves that the complainant was under the age of eighteen years, this raises the sentence to life imprisonment. Proof of age is therefore critical in sentencing for the offence of incest as it determines whether the accused person will spend the rest of his life in prison or he will have a second chance in life after spending ten years in custody, if the complainant was not proved to be under 18 years of age. 55. The respondent submits that the age of the complaint was proved by the age assessment report. Learned prosecution counsel for the respondent submits that there is no one preferred means of proving age. She reinforces her submission with the case of *Mwalango Chichoro Mwanjembe v Republic* [2016] KECA 183 (KLR) where the Court of Appeal stated that: "The question of proof of age has finally been settled by

recent decisions of this Court to the effect that it can be proved by documentary evidence such as a birth certificate, baptism card or by oral evidence of the child if the child is sufficiently intelligent or the evidence of the parents or guardian or medical evidence, among other credible forms of proof... We think that what ought to be stressed is that whatever the nature of evidence presented in proof of the victim's age, it has to be credible and reliable." 56. From the above decision, what the court needs to be satisfied on proof of age is that the evidence is credible and reliable. 57. In this case, the complainant stated her age to be 14 years. Her elder brother, PW 2 testified that he was 16 years old. He also did not produce any document to support his assertion of his age. 58. The trial court found that the complainant's age had been confirmed as 14 years' old through the age assessment report. 59. However, during testimony, the complainant did not mention that she had undergone age assessment. I have seen in the Post Rape Care Form the doctor recommended that age assessment be done. The investigating officer said that indeed age assessment had been done. There is an age assessment report produced as Exhibit 1, signed by the officer-in-charge, Dental Clinic, Lunga Lunga Sub-County hospital indicating the age of the complainant to be about 14 years old. The clinical officer, PW 4, did not however, refer to any such age assessment report. It is not clear who produced that age assessment report as exhibit 1. 60. All the same, since it was produced in evidence, its probative value has to be considered. Section 77(1) of the Evidence Act provides that: "In criminal proceedings, any document purporting to be a report under the hand of a Government analyst, medical practitioner or of any ballistics expert, document examiner or geologist upon any person, matter or thing submitted to him for examination or analysis may be used in evidence." 61. There is no doubt that such a report is evidence of an expert and therefore falls under the provisions of section 48 of the Evidence Act (Cap. 80) Laws of Kenya. The said section provides as follows: 48. Opinions of experts. 1. When the court has to form an opinion upon a point of foreign law, or of science or art, or as to identity or genuineness of handwriting or finger or other impressions, opinions upon that point are admissible if made by persons specially skilled in such foreign law, science or art, or in questions as to identity, or genuineness of handwriting or fingerprint or other impressions. 2. Such persons are called experts. 62. Such expert evidence must then meet the criteria set by the Court of Appeal in the case of *Mutonyi & another v Republic* [1982] KECA 25 (KLR) to wit: "... an expert witness who hopes to carry weight in a court of law, must, before giving his expert opinion: a. Establish by evidence that he is specially skilled in his science or art. b. Instruct the court in the criteria of his science or art, so that the court may itself test the accuracy of his opinion and also form its own independent opinion by applying these criteria to the facts proved. c. Give evidence of the facts on which may be facts ascertained by him or facts reported to him by another witness." 63. According to this criterion, I find that the age assessment report meets the first requirement that whoever prepared it was especially skilled in his science or art because section 77(1) provides that a report of a medical practitioner may be used in evidence. However, that is not all because in this case, the appellant challenges the reliability of that evidence. He is the complainant's father, and he is not agreeable that the complainant's age was proved sufficiently to be 14 years. That means, for the expert report

of the age assessment to be reliable the prosecution needed to go further to satisfy the second and third requirements in the Mutonyi case; these are, the examining medical officer ought to have instructed the court in the criteria he applied and the evidence of the facts on which he relied to arrive at the conclusion that the complainant was 14 years' old. That was not done. There is no explanation in that report of how he arrived at his conclusion. Further, the examining medical practitioner was not called as a witness to expound on the same. 64. That issue was compounded by the fact that the complainant said in evidence that although the incidents had occurred fairly recently between May and July 2022, she could not recall a single date when any of them occurred. That raises doubt about whether she could recall her date of birth and, therefore, her age with certainty. She said that she went to school up to class three. Could that have contributed to her inability to know dates? This issue raises a reasonable doubt about the reliability of her evidence about her age. In that case, on the issue of age, her brother's evidence was equally not supported by documentary evidence and could not have been reliable. 65. The Court of Appeal in the case of *Wambui v Republic* [2019] KECA 906 (KLR), while dealing with the issue of proof of age of a complainant in a sexual offence, stated as follows: "The importance of proving the age of a victim of defilement under the Sexual Offences Act by cogent evidence could not be gainsaid. It was not in doubt that the age of the victim was an essential ingredient of the offence of defilement and formed an important part of the charge because the prescribed sentence was dependent on the age of the victim... The totality of the evidence on age was that it did not possess the consistency and certainty that would have proved the exact date of the complainant's birth beyond reasonable doubt. Therefore, had the trial court gone into an analysis of the evidence with the thoroughness that was required of it, it would probably have arrived at a different conclusion. In failing to engage in that exhaustive re-evaluation, it fell into error and the lingering doubts had to be resolved in favour of the complainant..." 66. Following this decision, I find that there was no reliable evidence to prove the complainant's age as 14 years. The learned trial magistrate therefore erred in her finding that the age of the complainant had been proved as such 14 years beyond a reasonable doubt. 67. On the issue of the learned trial magistrate not giving due regard to the appellant's defence, I find the contention by the appellant not true. The trial court did not give an elaborate analysis of his evidence. But, it is apparent that, the trial court did not believe the evidence by the appellant, denying that he had committed the offence, to be capable of discounting the evidence that was tendered by the prosecution. As was held in the *Okeno* case (*supra*), notwithstanding the form taken by the magistrate's court judgment, I am nevertheless satisfied that the learned trial magistrate did make her own evaluation of the facts, in this case, the defence by the appellant, although this is not elaborated in her judgment. On the evidence adduced at the trial, the judgment positively supports the findings that the offence of incest was committed by the appellant. Any irregularity in failing to elaborately evaluate the defence tendered by the appellant did not in fact occasion a failure of justice. I am satisfied and find that the learned trial magistrate would have arrived at the same conclusion and convicted the appellant. 68. Consequently, I am satisfied that the appellant was properly convicted and the conviction is affirmed. 69. In the result, the appeal on conviction is found

to be without merit and is dismissed. The decision of the trial court convicting the appellant for incest is affirmed. 70. However, the appeal on sentence is successful and is allowed as there was a reasonable doubt on the complainant's age being 14 years old. That doubt must be exercised in favour of the appellant. The correct sentence ought to have been and is substituted to be ten years' imprisonment, the minimum sentence for incest as provided for under section 20 of the Sexual Offences Act . The sentence will run as directed by the trial court, from the date of the arrest of the appellant on 6th July 2022, since he was never released on bond or bail. 71. Orders accordingly. ANDAYI W. FRANCIS JUDGE DATED, SIGNED AND DELIVERED ON THE VIRTUAL PLATFORM, MICROSOFT TEAMS, THIS 13TH OF APRIL 2026 In the Presence of: The appellant in person from Shimo La Tewa prison. Orwa holding brief for Vallerie for the respondent Ummu: Court assistant. Signed by/for: HON. JUSTICE ANDAYI W.F. KWALE HIGH COURT Date: 2026-04-14 12:39:56

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