

**IN THE COURT OF APPEAL OF TANZANIA**

**AT BUKOBA**

**(CORAM: RUTAKANGWA, J.A., LUANDA, J.A., And JUMA, J.A.)**

**CRIMINAL APPEAL NO. 306 OF 2012**

**DEOGRATIUS KAIJAKUHAKWA .....APPELLANT**

**VERSUS**

**THE REPUBLIC.....RESPONDENT**

(Appeal from the Judgment of the High Court of Tanzania at Bukoba).

(Mjemmas, J.)

dated 15<sup>th</sup> day of October, 2012

in

Criminal Appeal No. 22 of 2012

.....

**JUDGEMENT OF THE COURT**

17<sup>th</sup> & 19<sup>th</sup> February, 2015

**LUANDA, J.A.:**

The above named appellant was convicted by the District Court of Bukoba on his own plea of guilty for raping a girl of 10 years of age and sentenced to 30 years imprisonment.

Aggrieved by both "conviction" and sentence, he unsuccessfully appealed to the High Court of Tanzania. The High Court found out that the appeal lodged by the appellant, after it was satisfied that the plea of the appellant was unequivocal and the facts adduced constitute the offence of rape, was barred by s. 360(1) of the Criminal Procedure Act, Cap. 20 RE. 2002 (the Act). It accordingly dismissed the appeal.

Undaunted, the appellant has come to this Court on second appeal.

Ms. Sakina Sinda learned Senior State Attorney who represented the respondent Republic resisted the appeal saying since the appellant had pleaded guilty to the charge of rape, in terms of s.360(1) of the Act he had no right to appeal to the High Court and obviously to this Court. He urged us to dismiss the appeal.

The appellant had nothing to say in elaboration to his two grounds of appeal he has raised in the memorandum of appeal. The grounds raised by the appellant can be paraphrased thus:-

1. *The High Court misdirected itself when it agreed with the trial Court and ignored his detailed petition of appeal.*
2. *That he was not accorded a fair trial due to the fact that he does not know Kiswahili the language the proceedings were conducted.*

As to the language of Kiswahili the High Court said that that complaint is not borne out by the record. In any case it went on, we quote:-

*"After all the record is evident that he signed against his statement to show that not only did he know how to read and write but also he knew well Swahili language."*

We entirely agree with the High Court on the issue of Kiswahili that the appellant is conversant. We need not say more.

Turning to his detailed petition of appeal in the High Court which is all about the manner in which the plea of the appellant was taken and what followed thereafter, we have the following to say. We have gone through the record. Indeed, the record shows that the appellant pleaded guilty to the offence of rape. The facts adduced establish that the offence of rape was committed. When he was asked to admit or otherwise, he admitted them to be correct. He was convicted as charged and ultimately sentenced to the aforestated sentence of 30 years imprisonment.

From above, it is clear that the appellant was properly convicted with rape. He has no cause to complain.

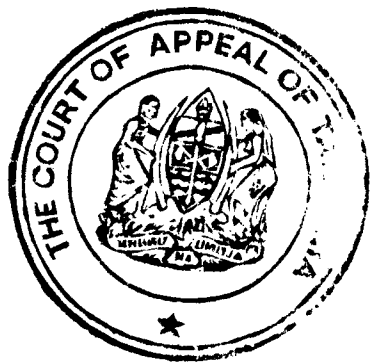
We agree with Ms. Sinda that the appeal has no merit. The sentence of 30 years imprisonment is the bare minimum. We dismiss the appeal in its entirety.

Order accordingly.

DATED at BUKOBA this 18<sup>th</sup> day of February, 2015.


E.M.K.RUTAKANGWA  
**JUSTICE OF APPEAL**

B.M. LUANDA  
**JUSTICE OF APPEAL**



I.H. JUMA  
**JUSTICE OF APPEAL**

I certify that this is a true copy of the original.

  
E.Y. MKWIZU  
**DEPUTY REGISTRAR**  
**COURT OF APPEAL**