

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(SUMBAWANGA DISTRICT REGISTRY)

AT SUMBAWANGA

DC CRIMINAL APPEAL NO. 24 OF 2022

IBRAHIM S/O KATUMBO APPELLANT
VERSUS

THE REPUBLIC RESPONDENT

(Appeal from the decision of the District Court of Kalambo at Matai)

(N K. Temu, RM)

Dated 9th day of March 2022

In

Criminal Case No. 110 of 2021

JUDGMENT

31/05 & 06/06/2022

NKWABI, J.:

The respondent readily acceded to the appeal. The respondent supported the appeal on the ground that the respondent failed to prove the case against the appellant beyond reasonable doubt. To that end the respondent prayed the conviction be quashed while the sentence against the appellant be set aside thus releasing the appellant from prison.

The appellant was convicted by the District Court with the offence of rape which is contrary to section 130 (1) and (2)(e) and section 131 (1) of the Penal Code Cap 16 R.E. 2019. He was also convicted for the offence of

impregnating a school girl contrary to section 60 A of the Education Act, Cap 353 R.E. 2002 as amended by the Written Laws (Miscellaneous Amendments Act No. 2 of 2016. Through the evidence of six prosecution witnesses and two exhibits, the trial court was satisfied with the respondent's version, dismissed the defence of the appellant and convicted him as charged. The appellant was sentenced to serve 30 years imprisonment for rape and three years' imprisonment for impregnating a school girl.

The background of this case is that on 27/02/2021 when PW1 was from school was seduced by the appellant, she went and had sexual intercourse with him. Therefrom she had sexual intercourse with the appellant on several occasions. It is from those sexual encounters that she became pregnant. She escaped from home several times. Later she named the responsible person for her pregnancy. She was sent to hospital for examination and the appellant was arrested and charged in the District Court.

The appellants' main ground of appeal is that the trial court erred both at law and fact by convicting him on a case which was not proved beyond reasonable doubt. He prayed he grounds of appeal be adopted as part of his

submissions. He was unrepresented at the hearing of this appeal, so, he fended for himself.

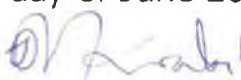
The respondent Republic, being duly represented by Ms. Marietha Maguta, learned State Attorney, supported the appeal on the reason that the respondent did not prove the case beyond reasonable doubt. She pointed out that there are grave contradictions that dispose of the case. I agree with her. There is contradiction on whether the child was born prematurely or not. That makes it difficult to determine with certainty who was responsible with the pregnancy. Further, there is contradiction as to where the alleged victim of the offence was residing at the material time.

For those reasons, I allow the appeal, quash the convictions and set aside the sentences against the appellant. I order for the appellant's immediate release from prison unless he is held therein for another lawful cause.

It is so ordered.

DATED at SUMBAWANGA this 6th day of June 2022.




J. F. NKWABI

JUDGE