Frank Dominic Mjuni vs Republic (Criminal Appeal No. 12 of 2022)	
Project code[1]	TAN
URL	https://tanzlii.org/akn/tz/judgment/tzhc/2022/15786/eng@2022-10-21
Citations	[2022] TZHC 15786
Country	The United Republic of Tanzania
Date of judgment	21 October 2022
Court	High Court
Location	Bukoba
Case type[2]	Criminal Appeal
Result	Appeal Dismissed
Flynote[3]	**Criminal law** – statutory rape - HIV transmission to a victim below the age of consent
Legislation and International Instruments[4]	**Legislation** • Sections 130(2)(e) and 131(1) of the Penal Code, Cap. 16 RE 2002 • Section 21(l)(b)(3) of the HIV and AIDS (Prevention and Control Act, No. 28 of 2008 • Sections 50 and 51 of the Criminal Procedure Act/ Cap. 20 RE 2019 • Section 395A of the Criminal Procedure Act Cap. 20 RE 2019 • Section 127(6) of the Evidence Act, Cap, 6 RE 2019
Cases cited as authority[5]	• *Shani Chamwela Suleiman v The Republic*, Criminal Appeal No. 481 of 2021, CAT at Dar es salaam (unreported) • *Isaya Renatus v Republic*, Criminal Appeal No. 542 of 2015, CAT (unreported) • *Ndorosi Kudekei v R*, Criminal Appeal No. 318 of 2016
Facts[6]	The appellant was convicted and sentenced to life imprisonment after being found guilty of raping and transmitting HIV to a six-year-old child (the victim). The appellant worked as a herdsman in the victim's family from 2008 to 2013 and lived at the victim's family house at the time. After complaining to her

[1] Project code is the combination of the three jurisdiction letters (KEN for Kenya, SAF for South Africa etc) and the unique case identification number for the index. E.g., a project code could be KEN1, SAF34, ZAM12).

[2] Whether Trial, Application or Appeal.

[3] **Area of law** - topic – subtopic.

[4] Legislation/ International instrument title and section numbers.

[5] List of cases considered to be important precedent (case name and citation).

[6] Brief facts about the case (max 150 words).

	parents, the victim was taken for a medical examination and tested positive for HIV. The mother of the victim found a CTC card showing that the appellant was HIV positive and was under medication.
Summary[7]	The court dismissed the four grounds of appeal. First, the court determined that DNA evidence was not necessary to prove the rape case, as rape is often committed in secret. The court also found that an eyewitness was not required, as the prosecution relied on the victim's testimony, the appellant's statement, and other relevant evidence. Second, the court established that the victim's age had been proven through the testimony of the examining doctor and the trial magistrate. The doctor and the trial magistrate complied with the law when they recorded that the victim was 6 years old. Third, the court concluded that the cautioned statement was obtained within the legal timeframe, as it was recorded within 4 hours of the appellant's restraint or arrest. Finally, the court dismissed the claim that the victim's evidence contradicted her mother's testimony regarding the place and time of the rape. The court held that there was no contradiction, as the appellant had raped the victim on multiple occasions.
Decision/ Judgment[8]	The conviction and sentence against the appellant were proved beyond reasonable doubt and the appeal was dismissed.
Basis of the decision[9]	The court relied on section 127(6) of the Evidence Act, which allows the court to accept the testimony of a child of tender years or a victim of a sexual offense as the only independent evidence after assessing the credibility of the evidence. The court found the child's evidence to be consistent with the appellant's cautioned statement.
Reported by Date	Rada Stoilova 16 June 2023

[7] Summary of the determination of legal questions and/or grounds of appeal (between 150-250 words).

[8] A brief summary of the ruling/judgment of the court (max 100 words).

[9] A 1-2 sentence summary of the basis of the decision (i.e., which legal rules were relied on).