



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET**

Criminal Appeal 115 of 2009

P M APPELLANT

VERSUS

REPUBLIC RESPONDENT

JUDGEMENT

The appellant was charged with incest by a male contrary to Section 20 (1) of the Sexual Offences Act No. 3 of 2006. He pleaded guilty, was convicted and sentenced to life imprisonment. His appeal is against sentence only.

The learned State Counsel supports both conviction and sentence on the ground that the complainant was only fifteen (15) years old and the offence was committed repeatedly culminating to the complainant conceiving a child with her blood brother. Although the appellant pleaded guilty and he is a first offender, the provisions of the Act are very clear that if the incest is committed against a female person who is under eighteen (18) 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 by the consent of the female person.

The appeal is therefore dismissed.

Dated and delivered at Eldoret this 3rd day of March 2010.

J. L. A. OSIEMO

JUDGE



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