

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

Confirmation Case No. 484 of 2010

THE REPUBLIC

Versus

SAMSON KANTHITI

Coram: HON. JUSTICE MANDA

Mbendera for the State

Defendant Present (unrepresented)

Mrs Matekenya Court Clerk

ORDER ON CONFIRMATION

This matter was set down to consider the propriety of the conviction and the sentence. The accused was charged with the offence of defilement which is contrary to Section 138(1) of the Penal Code. He pleaded guilty to the charge.

The fact that were narrated by the police do clearly state, as reflected on Page 3 of the record from the court below that the accused person had carnal knowledge of a girl who was aged 8 years old. The accused person admitted these facts to be correct whereupon he was found guilty of the offence of defilement and duly convicted. I do not think then that it can be said that there is anything wrong with his conviction, unless of course the reviewing judge saw something that I did not. Of course I must state that in the review notes, the judge does not actually state what was wrong with the conviction, which is why I had to go through the entire record by the end of which I did not find any error in the way the accused was convicted.

As for the sentence, I did note that much as the accused person did plead guilty to the charge, he did not offer anything to state in mitigation, thus one would wonder if he was indeed remorseful. At the same time it must be borne in mind that offences of defilement do impose a heavy emotional burden on the victims. At the same time these offences are becoming rampant within the society much to the detriment of the young girls who fall victims to such practices. I do therefore believe that stiffer punishments are warranted for people that do defile young girls and I find this case to be no exception. Indeed I had been inclined to confirm the four year sentence that was imposed on the accused person. My consideration in this regard was the age of the convict. He is 21 years old and hence is still a young man. However, just like in the lower court, the convict did not show any remorse in this court. In fact when this court did ask him to say anything regarding the submission of the state that his sentence should be enhanced, the convict offered nothing and did start laughing. This just confirmed my earlier observation that the accused person did not show any remorse in the lower court and he was definitely not remorseful during this hearing. In view of this I find that despite his age the convict does deserve a stiffer sentence because he took these proceedings as a joke and yet the offence he committed was a serious one. I will thus proceed to enhance his sentence to 6 years Imprisonment with Hard Labour. The sentence will be with effect from the date he started serving his current sentence. The accused has the right to appeal against this enhancement.

Made in Open Court this.....day of.....2010

K.T. MANDA

JUDGE