

5 **THE REPUBLIC OF UGANDA**

**IN THE COURT OF APPEAL OF UGANDA AT ARUA**

**CRIMINAL APPEAL NO. 0373 OF 2014**

*(Arising from High Court Criminal Case No.048 of 2010)*

**BETWEEN**

10 **OYOKU COSMAS..... APPELLANT**

**AND**

**UGANDA ..... RESPONDENT**

*(Appeal from the judgment of the High Court of Uganda Holden at Arua, before Hon. Justice Yasin Nyanzi delivered on the 4<sup>th</sup> March 2013)*

15 **Coram: HON. MR. JUSTICE CHEBORION BARISHAKI, JA**

**HON. LADY JUSTICE MONICA MUGENYI, JA**

**HON. MR. JUSTICE CHRISTOPHER GASHIRABAKE, JA**

**JUDGMENT OF THE COURT**

20 **Introduction**

This appeal is from the decision of the High Court of Uganda sitting at Arua in High Court Criminal Case No. 048 of 2010, in which Yasin Nyanzi, J convicted the Appellant of the offence of aggravated defilement contrary to section 129(3) and (4) of the Penal Code Act Cap 120 and sentenced him to 25 years  
25 imprisonment.

The brief facts of the case as admitted by the trial court were that on the 25<sup>th</sup> of September, 2020 at about 2:00pm at Lindoa Village, Terego county in Arua district, the Appellant had unlawful sexual intercourse with Flavia Inzikuru, a girl then aged 9 years. The incident was reported to police whereupon, investigations

  
  


5 led to the arrest and charging of the Appellant with offence of aggravated  
defilement contrary to Section 129(3) and (4) (a) of the Penal Code Act. The  
Appellant was subsequently arraigned before court, he denied the charge and  
underwent full trial. To prove its case, prosecution led evidence of six witnesses  
and documentary medical reports as well. The Appellant gave unsworn testimony  
10 denying culpability but without any specific defence. Upon evaluating both  
prosecution and defence cases, court believed prosecution and found the Appellant  
guilty of the offence. He was convicted and sentenced to 25 years imprisonment.  
The Appellant was aggrieved by the sentence only hence this appeal on grounds  
that;

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1. The learned trial Judge erred in law and fact when he failed to  
consider some mitigating factors that were available and in  
favour of the Appellant.
  2. The sentence of 2 years imprisonment without remission is  
deemed harsh and excessive given the obtaining circumstances.
  - 20 3. The learned trial Judge erred in law and facts when he sentenced  
the Appellant to serve 25 years imprisonment without taking into  
account the period the Appellant spent on remand in lawful  
custody.

### **Representation**

25 The Appellant was represented by Mr. Madira Jimmy. The Respondent was  
represented by Ms. Nabasa Caroline.

Both parties sought, and were granted leave to proceed by way of written  
submissions.

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