

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA SITTING AT ARUA  
CRIMINAL CASE No. 0086 OF 2018**

**UGANDA ..... PROSECUTOR**

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**VERSUS**

**OJOK RONALD ..... ACCUSED**

10 **Before: Hon Justice Stephen Mubiru.**

**SENTENCE AND REASONS FOR SENTENCE**

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15 This case has come up today 23<sup>rd</sup> November, 2018 in a special session for plea bargaining. The accused is indicted with the offence of Defilement c/s 129 (1) of *The Penal Code Act*. It is alleged that on 1<sup>st</sup> January, 2018 at Ayondony village, Lalogi sub-county in Omoro District, the accused performed and unlawful sexual act with Aryemo Gladys, a girl aged 15 years.

20 When the case was called, the learned State Resident Attorney, Ms. Catherine Nakaggwa has reported that she successfully negotiated a plea bargain with the accused and his counsel. The court has invited the State Attorney to introduce the plea agreement and obtained confirmation of this fact from defence counsel on state brief, Mr. Walter Ladwar Okidi. The court has ascertained that the accused has full understanding of what a guilty plea means and its consequences, the voluntariness of the accused's consent to the bargain and appreciation of its implication in terms  
25 of waiver of the constitutional rights specified in the first section of the plea agreement. The Court being satisfied that there is a factual basis for the plea, and having made the finding that the accused made a knowing, voluntary, and intelligent plea bargain, and after he has executed a confirmation of the agreement, has gone ahead to receive the agreement to form part of the record. The accused has then been allowed to take plea whereupon a plea of guilty has been  
30 entered.

The court has invited the learned Resident State Attorney to narrate the factual basis for the guilty plea, whereupon she has narrated the following facts; on 1<sup>st</sup> January, 2018 the victim aged 15 was left home by her mother and at around 10.00 pm the accused who also lived in the same homestead asked her to serve him with food in the compound. When the accused grabbed her and threatened her with a panga and dragged her to a place under a nearby tree, threw her down and had sexual intercourse with her. The victim reported to the mother and later the police. The accused was found to be aged 21 years and mentally sound. The victim was found to be aged 15 and had a torn hymen. The accused was charged. The respective medical examination reports too have been admitted as part of the facts.

Upon ascertaining from the accused that the facts as stated are correct, he has been convicted on his own plea of guilty for the offence of Defilement c/s 129 (1) of *The Penal Code Act*. In justification of the sentence of six (6) years' imprisonment proposed in the plea agreement, the learned Resident State Attorney has stated that; the convict is related to the victim, a son to the victim's maternal uncle. Breach of trust occurred. Learned defence counsel has stated the key mitigating factors considered to have been that; the accused is only 21 years old and the victim 15 years. He is a first offender deserving of lenience. By way of *allocutus*, the accused has stated that; he has nothing to add.

I have reviewed the proposed sentence in light of *The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013*. I have also reviewed current sentencing practices for offences of this nature. In this regard, I have considered the case of *Abot Richard v. Uganda C.A. Crim. Appeal No. 190 of 2004*, where in its judgment of 6<sup>th</sup> February 2006, the Court of Appeal upheld a sentence of 8 years' imprisonment for an appellant who was convicted of the offence defilement of a 13 year old girl but had spent three years on remand before sentence and that of *Ongodia Elungat John Michael v. Uganda C.A. Cr. Appeal No. 06 of 2002* where a sentence 5 years' imprisonment was meted out to 29 year old accused, who had spent two years on remand, for defiling and impregnating a fifteen year old school girl.

A plea of guilty offered readily before commencement of trial usually results in a discount of anywhere up to a third of the sentence that would otherwise be imposed after a full trial. Having

considered the sentencing guidelines and the current sentencing practice in relation to offences of this nature, I consider the sentence proposed in the plea agreement entered into by the accused, his counsel, and the State Attorney to be appropriate. In accordance with Article 23 (8) of the Constitution and Regulation 15 (2) of The *Constitution (Sentencing Guidelines for Courts of*  
5 *Judicature) (Practice) Directions, 2013*, to the effect that the court should deduct the period spent on remand from the sentence considered appropriate, after all factors have been taken into account, I observe that the convict has been in custody since 21<sup>st</sup> February, 2018 and I hereby take into account and set off nine months as the period the convict has already spent on remand. I therefore sentence the convict to a term of imprisonment of five (5) years and three (3) months to  
10 be served starting today.

Having been convicted and sentenced on his own plea of guilty, the convict is advised that he has a right of appeal against the legality and severity of this sentence, within a period of fourteen days.

15 Dated at Gulu this 23<sup>rd</sup> day of November, 2018

Stephen Mubiru

Judge,

23<sup>rd</sup> November, 2018.