

THE HIGH COURT, AT ITS HEADQUARTERS IN KIGALI, HEARING CRIMINAL CASES ON APPEAL, DECIDES PUBLICLY ON CASE RPA 00389/2016/HC/KIG AS FOLLOWS:

PARTIES

MBONABUCYA Emmanuel (Appellant), son of Gakera and Musabyimana, born in 1975, resides in Rukoma Village, Mugote Cell, Ngoma Sector, Rulindo District

Versus

PROSECUTION

OFFENCE: Cohabitation with a minor, an offence provided for and punishable by Article 194 of Organic Law no 01/2012 of 02/05/2012 establishing the Penal Code of Rwanda

I. FACTS AND PROCEDURE

1. Mbonabucya was arrested and accused of cohabitation with a 17-year-old Muharushema Yvonne, an offence he confesses but explains that the cohabitation was consensual and that he thought Mukarushema was 18 years.
2. In the Gicumbi High Court, Mbonabucya was sentenced to 10 years of imprisonment pursuant to Article 194 of the Penal Code.
3. Mbonabucya Emmanuel appealed requesting that his sentence be reduced to 1 year on the grounds that he pleaded guilty, and that he is caring of orphans. The Prosecution submits that his sentence had been sufficiently reduced. The Court proceeds to examine whether Mbarushimana's sentence has be reduced.

II. COURT ANALYSIS

✓ With respect to the reduction of sentences

4. MBONABUCYA Emmanuel asks for a reduced sentence up to 1 year on the grounds that he cohabited with Mukarushema ignoring she was a child, that he now understands the gravity of his offence, and that he is caring for orphans.

5. The Prosecution submits that Mbonabucya's sentence had already been reduced in accordance with law, that the offence he is accused of is punishable by life imprisonment which cannot be reduced to less than 10 years.
6. This Court notes that Article 191 of Organic Law n° 01/2012 / OL of 02/05/2012 establishing the Penal Code states that "*any person who commits child defilement shall be liable to life imprisonment with special provisions*".
7. The fact that Mbonabucya was, in the judgment under appeal, sentenced to 10 years of imprisonment in lieu of life imprisonment, shows to the Court that his sentence has been sufficiently reduced, based on his plea of guilty and the fact that he had not previously been convicted of an offence. These are mitigating circumstances in accordance with Article 77 of the aforementioned Law, thus the sentence he was given is the smallest possible by virtue of Article 78 of the same Law.

III. COURT DECISION

8. Holds that MBONABUCYA Emmanuel's appeal is admissible but lacks merits
9. Holds that the sentence of 10 years of imprisonment passed by judgment PR.0017/2016/TGI/GIC is unchanged
10. Holds that MBONABUCYA Emmanuel is exempted from paying legal costs because he is in prison.

ISSUED AND READ PUBLICLY ON 27 JUNE 2014 BY THE HIGH COURT COMPOSED OF:

Judge

KALIWABO M. Charles

Registrar

UWIZERA Zeno