

KUDAKWASHE MASAMVU  
versus  
THE STATE

HIGH COURT OF ZIMBABWE  
MUZENDA J  
MUTARE, 3 March 2025

MUZENDA J:

**JUDGMENT**

This is a chamber application for condonation of late noting of appeal and leave to prosecute an appeal in person, which this court refused to grant on 20 January 2025 due to lack of prospects of success on appeal.

Applicant has lodged an application for leave to appeal to the Supreme Court.

**BACKGROUND FACTS**

On 18 September 2020 at Nyangani Village, applicant allegedly had sexual intercourse with a young girl who was then aged 6 years on two occasions. First applicant carnally penetrated the survivor through her vagina and after that he had sexual intercourse with same victim through the anus. At his trial before the Regional Magistrate he raised a defence of alibi as well as the fact due to bad blood between the victim's family and his, the allegations were fabricated.

The trial court in delivering its judgment had the benefit of both oral and medical evidence. The medical affidavit shows that penetration of both orifices was definite and the doctor observed bruises on both vagina and anus, there was also redness. The 6 year old survivor testified virtually and gave a vivid narration of how she was sexually molested. She told the court that because of the sexual assault she experienced difficulties when bathing. The survivor's mother also testified virtually cementing the evidence given by the survivor. She confirmed injuries on the genitalia of the survivor and that these were detected 3 days after the assault, on 21 September 2020.

The Regional Court found the state witnesses credible and concluded that the state had discharged the onus reposed on it and convicted the applicant. The trial court also gave a sentencing

judgment. Both judgments are detailed and I fail to find fault with both. I am of the firm view that the prospects of success on appeal do not exist. The draft notice of appeal and grounds of appeal attached by the applicant, the grievance raised are not supported by facts.

Accordingly, the application for leave to appeal to the Supreme Court has no merit, it is therefore declined.