



MALAWI

IN THE HIGH COURT OF MALAWI

**PRINCIPAL REGISTRY
CONFIRMATION CASE NO. 1222 OF 2003
THE REPUBLIC
Vs
MALATINO AUSTIN**

From the Second Magistrate's Court sitting at Mwanza
Being Criminal Case No. 333 of 2004

CORAM: HON. JUSTICE F.E. KAPANDA
Phiri (Mrs), of Counsel for the State Advocate
Maida (Ms), Official Interpreter

Date of hearing : 11th November 2004
Date of order : 11th November 2004

ORDER IN CONFIRMATION

Kapanda, J:

The matter has been set down by the Reviewing Judge so that this court should consider enhancing the sentence that was meted on the Defendant. The court had found him guilty of the offence of Rape after a full trial.

The convict is a nephew of the complainant. It is not in doubt at all that the complainant, 70 years, old was Raped by the Defendant. The Defendant committed the offence while escorting the complainant from a beer party. Soon after the Rape the complainant went to inform the lady who had seen the complainant and the Defendant leaving the place where they were having the said party. The complainant's story being Raped was, therefore, corroborated. Accordingly, the conviction is confirmed.

As regards the sentence the lower court imposed a sentence of seven(7) years on the Defendant. This is the sentence that the Reviewing Judge thought is on the lower side. It appears to be in agreement with the views of the Reviewing Judge. I did not agree with the view that a sentence of seven(7) years is manifestly inadequate. Indeed, I find that the lower court considered the guideline sentence for the offence consequently, the sentence is hereby confirmed.

Pronounced in open Court this 11th day of November 2004 at the Principal Registry, Blantyre.

F.E. Kapanda

JUDGE