Rape: Lagos govt appeals to Supreme Court against acquittal of doctor

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The Lagos State Government has appealed to the Supreme Court against the Court of Appeal’s judgement acquitting medical doctor Femi Olaleye of raping a minor.  
  
The Lagos-based doctor was convicted and sentenced to life imprisonment by the High Court on two counts of defilement and sexual assault by penetration of his wife’s 16-year-old niece.  
  
PREMIUM TIMES reports that Mr Olaleye, a medical director at Optimal Cancer Care, was arraigned in 2022 by the Lagos State Government at the Sexual Offences and Domestic Violence Court, in Ikeja, Lagos.  
  
In October 2023, the Lagos Special Offences and Domestic Violence Court convicted and sentenced him to life imprisonment.  
  
However, on 29 November, the Court of Appeal, Lagos division, discharged and acquitted the convict citing errors in the lower court’s judgement.  
  
The appellate court described the evidence provided by the prosecution as “tainted” and “unreliable.”  
  
In response, civil rights groups petitioned the Lagos state Attorney General, Lawal Pedro, a Senior Advocate of Nigeria (SAN), urging him to challenge the decision at the Supreme Court to restore public trust in the justice system.  
  
Appeal  
  
On 27 December, the Lagos State Government filed its notice of appeal at the Supreme Court against the Court of Appeal’s decision.  
  
In the filing signed by Babajide Martins, Director of Public Prosecutions (DPP), Lagos State of Ministry of Justice, the state government urged the court to set aside the decision of the Court of Appeal and affirm the conviction and sentences of Mr Olaleye by the trial court.  
  
The notice further stated that “the Defendant/ Respondent is not in custody having been discharged and acquitted by the Court of Appeal from the conviction and sentence to life imprisonment by the High Court of Lagos State for the offences of Sexual Assault by penetration and Defilement of a Child.”  
  
Grounds of appeal  
  
The state government gave three grounds of appeal against the lower court’s decision.  
  
It argued that the judges of the Court of Appeal “erred in law when they held in total disregard of Section 209 (2) of the Evidence Act, 2011 and the decision of the Apex Court in Dagaya V State (2006) LPELR 912 (SC) that sworn evidence of PW2, a child of above fourteen (14), requires corroboration.”  
  
The appellant also argued that the Court of Appeal made a legal error by ruling that certain extrajudicial statements marked Exhibits H, H1, and H2 were improperly admitted as evidence because the trial court failed to conduct a “trial within a trial” to determine their admissibility.  
  
It maintained that the trial court rightly admitted the statements and that a trial-within-trial was not necessary, with the withdrawal of the objection to the confessional statement.  
  
The appellant also faulted the Court of Appeal’s decision that the prosecution’s failure to call two key witnesses was fatal to the case of the prosecution.  
  
The Lagos government maintained that the prosecution was not bound by any law to call all proposed witnesses.’  
  
It said, for instance, the absence of the Divisional Police Officer (DPO), Patricia Amadi, who was not the investigating police officer in the case, did not harm the prosecution’s case. It said the evidence from the actual investigating officer, PW6, was sufficient.  
  
The government said the two witnesses did not detract from the prosecution’s case, because the corroboration from the victim and other witnesses proved the necessary elements of the offence.