Defilement: Appeal Court reserves judgment in Dr. Femi Olaleye’s trial

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Defilement: Appeal Court reserves judgment in Dr. Femi Olaleye’s trial  
  
The Court of Appeal sitting in Lagos has reserved judgment on the appeal filed by Dr. Olufemi Olaleye, the Medical Director of Optimal Cancer Care Foundation, challenging his conviction and sentencing on two counts of defilement and sexual assault by penetration of a minor.  
  
The court, presided over by Justice Olukayode Bada, reserved judgment for a later date after the parties adopted their briefs of argument in the matter.  
  
Other members of the panel include Justice Mohammad Ibrahim Sirajo and Justice Folasade Ojo.  
  
On October 24, 2023, Justice Rahman Oshodi of the Lagos State Sexual Offences and Domestic Violence Court sentenced Dr. Olufemi Olaleye to life imprisonment for defiling his wife’s 16-year-old niece.  
  
In his judgment, Justice Oshodi held that the prosecution, the Lagos state government had proved the charge against the defendant and the evidence against him was compelling.  
  
Dissatisfied with the judgment, Dr Olaleye approached the court of appeal seeking to overturn the decision.  
  
At the hearing of the appeal on Sept 24, the appellant through his lawyer, Senior Advocate of Nigeria, Kemi Pinheiro, argued that the lower court erred when in the absence of any direct evidence, it held that the alleged victim of the crime was a child of 16 years at the time of the offence, adding that there was no direct evidence from anyone who witnessed the birth of the alleged victim of the crime.  
  
However, the respondent through its counsel, a Chief State Counsel, Olufunmi Aluko countered the appellant’s argument and noted that it had established the offences of defilement and sexual assault by penetration against the appellant beyond reasonable doubt which led to the conviction of the appellant by the lower court.  
  
The prosecution submitted that there were no contradictions in any of the testimonies of its witnesses.  
  
The respondent argued that to establish the offence of defilement, the following must be proven: that the child is underage; that the accused had sexual intercourse with the child; and that the consent of the child is immaterial. She held that all these had been proven in the course of the trial which the trial judge relied on to convict the appellant.  
  
The respondent further stated that the evidence of the Prosecution witnesses PW1 (Mrs. Aderemi Fagbemi Olaleye, the appellant’s wife), PW4 ( Esther Igbineweka, police officer from Gender Section of the Nigeria Police), PW5 (Dr. Akinbunmi Oyebimpe – the medical Doctor that examined the Prosecutrix) and PW6 (Inspector Abe Leonard -The Police Officer from the Anthony Police Station where the case was initially reported and investigated) confirmed the consistency of PW2 (Survivor’s ) account as to her age.  
  
In his appeal, Dr Olaleye had also contended that the medical report of the examination of the survivor tendered by the respondent and which the court relied on did not indict him as the person who committed the offence.  
  
In response, the state counsel argued that the judgement of the lower court was not reached solely on the medical evidence, as the medical evidence was just to prove a critical ingredient of the offence of penetration, as well as to serve as corroborative evidence to prove that there was penetration into the vaginal canal of the survivor.  
  
“The judgement was reached based on the medical evidence as well as other compelling and cogent legal evidence as produced and as adduced by the respondent at the lower court”.  
  
“These are pieces of legal evidence which proved that the appellant was the actual person who committed the offence and no other person particularly as he was identified by the survivor”.  
  
At the lower court, the survivor had testified that she opened up to a school principal and psychologist, Aunty Tessy who called PW1 (Mrs Olaleye) immediately to inform her.  
  
The survivor testified that the appellant had been sexually abusing her, that he introduced her to pornography and further graduated to oral sex with her in March 2020. She stated that the sexual abuse happened in their home, and the appellant acted around 2 am daily after switching off the CCTV camera in the home or turning the direction of the camera. She further stated that the appellant threatened her not to tell anyone.  
  
The Court of Appeal also specifically inquired from the State Counsel, what interest the complainant had to serve and Aluko responded that the complainant acted in the interest of justice, as a grievous crime against the State had been committed.  
  
At the lower court, PW 1 in stating her reason for the report of the crime perpetrated by the Appellant her husband of over (12) twelve years said, “My lord, I was raised to be a strong confident woman. Evil is evil regardless of who is perpetrating it. I have a girl child, and I have 8 nieces who all look up to me, and who stay with me. My lord, if this is not curbed, the evil will continue, and my conscience and how my late mother raised me will not let me rest to cover up evil regardless of whether he is my husband or otherwise.  
  
After listening to the briefs of both parties, the parties adopted their arguments and the matter was reserved for judgment.