R. v. BWALYA KAPONDA alias WHITE.

CRIMINAL APPEAL CASE NO. 32 OF 1939.

Indecent assault—corroboration of child's evidence.

The facts appear from the judgment. Evidence of admission by accused of the offence is sufficient corroboration if such evidence is believed by the Court.

Robinson, A.C.J.: The appellant was convicted on 31st May, 1939, before the Subordinate Court (Class II), Luwingu, on a charge of indecent assault on a girl aged about 7 years old *contra* section 118 (1) Penal Code. He was sentenced to two years I.H.L. and ten lashes. He does not wish to be present but appeals against conviction on the grounds that the statements of the prosecution witnesses differ.

The story is that this small child was enticed by the appellant into his hut one afternoon, he undressed her and put her on his bed where he indecently assaulted her. She went home and at once told her father and mother. The mother examined her and found clear evidence of a sexual assault. The father taxed the appellant with it that same evening, and the appellant denied. The matter was reported to the headman who told the father and mother to report to the chief. The appellant then came and offered them 2*s*. to drop the case and admitted having defiled the child. After some delay, owing to illness, a report was made to the chief who ordered the arrest of the accused and everything was referred to the boma.

The Court sitting in its appellate jurisdiction will not disturb a verdict unless an appellant can show that the verdict is unreasonable and cannot be supported by the evidence.[1] If there is evidence to support the conviction, the appeal will be dismissed, *Rex* v. *Hancox*, 8 Cr. App. R. 193. Now here there is sufficient evidence and the Magistrate believed it. The only point for this Court to consider is whether there is sufficient corroboration of the child's story. There is no doubt that the child was assaulted, but what is wanted is some corroboration of her story that it was the accused who did it. Such corroboration is to be found in the evidence, given by the father and the mother, of the appellant coming and admitting the assault and offering money. It is true that thereafter the appellant has always denied but the Magistrate was perfectly entitled to accept the evidence as true and, in the opinion of this Court, it is a sufficient connecting up of the appellant with the assault to corroborate the child's story.

The appeal must be dismissed. There is no appeal against sentence but, if there were, I should see no cause to interfere with it.

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[1] This is not now a correct approach—see *Abram Chiteta* v. *Reg.* 1960 S.J.N.R. 33. —*Editor.*