



REPUBLIC OF KENYA



**KENYA LAW**  
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**Loteng v State (Criminal Revision E047 of 2024)  
[2024] KEHC 11977 (KLR) (30 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11977 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAPENGURIA  
CRIMINAL REVISION E047 OF 2024  
RPV WENDOH, J  
SEPTEMBER 30, 2024**

**BETWEEN**

**LOKUDAN LOTENG ..... APPLICANT**

**AND**

**STATE ..... RESPONDENT**

*(From the original conviction and sentence in SPM'S CRIM. C. NO. 1021 OF 2011)*

**RULING**

1. Lokudan Loteng seeks a review of his sentence. He was convicted for the offence of defilement contrary to section 8(1) as read with Section 8 (2) of the [SOA](#) and sentenced to life imprisonment.
2. He appealed in HCRA. no. 98 of 2012 and on 30/5/2024 Judge J.R. Karanja dismissed the appeal. He filed a second appeal to the Court of Appeal Eldoret and the same was denied; He applied to High Court for resentencing and life imprisonment was reduced to forty (40) years imprisonment. He is now back seeking further review.
3. The applicant has exhausted his Right of Appeal in the High Court and Court of Appeal. I believe the resentencing was based on the Supreme Court decision in [Francis Karioko Muruatetu and other v. rep.](#) Petition 15 & 16 of 2015 which was erroneously applied to all cases including defilement case that the Supreme Court has clarified this. The [Muruatetu case](#) does not apply to all other cases. Having benefited from the [Muruatetu case](#), The applicant can not come back to this court for another review because this court is *functus officio*. If he has any grievances, he can only move the Supreme Court. For the above reason's the application for review is unmerited and declined. File closed.

**DELIVERED, DATED AND SIGNED AT KAPENGURIA THIS 30<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

**R. WENDOH**

**JUDGE**



Delivered in the presence of:-

In person - Appellant.

Mr. Majale for the State.

Court Assistants – Juma/Hellen

