



**Makokha v Republic (Criminal Revision E005 of 2023)
[2024] KEHC 11678 (KLR) (26 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11678 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL REVISION E005 OF 2023
SC CHIRCHIR, J
SEPTEMBER 26, 2024**

BETWEEN

SHABAN ODONGO MAKOKHA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Petitioner herein filed this petition before the High Court in Voi.
2. Justice Dulu forwarded the file to this court upon noticing that the primary case emanated from the Chief Magistrate’s Court at Mumias which is within the supervision of this court.
3. The petitioner is seeking for reduction of sentence ,and further to have his sentence reduced by the number of years he had spent in custody during trial.
4. He has stated that his appeal to the High Court was dismissed but there was a pending appeal before the Court of Appeal which he intends to withdraw.
5. The Respondent opposes the Application.
6. It is the Respondent’s case that this court is functus officio; that the Applicants has a pending Appeal and therefore it is premature to raise constitutional questions.
7. A perusal of past matters in this court shows that the petitioner had previously filed Kakamega High Court Petition No E021/2021. The issues were the same, notwithstanding that the present application has been christened a revision. That petition was determined on 30/5/2024. It is apparent that the Applicant had filed this Application before Voi High Court while Petition No E02 of 2021 was pending before this court.



8. Petition No E02/2021 was raising the same issues as aforesaid. If the Applicant was dissatisfied with the outcome in Petition E02/2021 he ought to have moved to the Court of Appeal.
9. A pursuit of two Application seeking similar prayers in two different courts is clearly an abuse of the court process by the Applicant consequently the Application filed on 20/3/2023 is hereby struck off.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 26TH DAY OF SEPTEMBER 2024.

S. CHIRCHIR

JUDGE.

In presence of:-

Godwin Luyundi – Court Assistant

The petitioner.

Ms. Osoro for DPP

