



**Obala v Republic (Miscellaneous Criminal Application E168 of 2024)
[2024] KEHC 11610 (KLR) (26 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11610 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E168 OF 2024
RE ABURILI, J
SEPTEMBER 26, 2024**

BETWEEN

JOSEPH AGUTU OBALA APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Kisumu Chief
Magistrate's Court Criminal Sexual Offences Case No. 18 of 2016)*

RULING

1. The Applicant Joseph Agutu Obala was convicted vide Kisumu CM Criminal Case No. 18 of 2016 with the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the [Sexual Offences Act](#).
2. It is not clear what sentence was imposed as the warrant of commitment to prison is not annexed. He claims that he appealed vide HCCRA No. 116 of 2018 and that 75 years' imprisonment was substituted to 20 years' imprisonment.
3. That he spent 1 year and 6 months in custody before he was granted bond on 19th July 2018 from 12th July 2016. However, full proceedings have not been annexed to confirm that position.
4. He has only annexed a charge sheet, the plea date and a portion where his surety was approved.
5. That in my view is being mischievous as such patched up criminal record could have been doctored to his advantage.
6. I find the application to have the period spent in custody considered is not supported. It is dismissed and this file is closed.

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



R. E. ABURILI
JUDGE

