



**Andere v Republic (Miscellaneous Criminal Application  
123 of 2023) [2024] KEHC 13245 (KLR) (31 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13245 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION 123 OF 2023**

**DK KEMEL, J**

**OCTOBER 31, 2024**

**BETWEEN**

**JULIUS ODONGO ANDERE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant, Julius Odongo Andere, has filed this application dated 18/7/2023 before the court on 4/8/2023 brought under Article 22 (1) (3), 24 (1) (e), 50(2)(9),159(a)(b)(d), 165 (a) and Section 333 (2), 26(2) and 329 of the *Criminal Procedure Code*. It seeks that this court reverses its own orders.
2. In the affidavit in support of this application, the applicant deposes that he was charged, tried and convicted of the offence of defilement contrary to Section 8 (1) as read with Section 8(2) of the *Sexual Offences Act*, No. 3 of 2006. That he appealed to the High Court vide Criminal Appeal No. 43 of 2019 wherein his life sentence was reduced to 50 years imprisonment on appeal. That he now applies for revision of the same on grounds that he is a first offender and that he has reformed.
3. The Respondent has not made any substantive submissions or response to the application by the applicant.
4. I have considered this application and the averments of the applicant as contained in the affidavit in support of the application. I have also considered the record of proceedings regarding this matter. I find the only issue for determination is whether the application has merit.
5. In the judgment of this court delivered on 5/5/2020, the Hon. Judge noted;

“In conclusion, I find and hold that the appellant’s appeal against conviction is devoid of merit. The same is dismissed. As against sentence, albeit lawful sentence was imposed, on



the strength of Jared Injira Koita (supra) decision, I exercise discretion and resentence the appellant to serve fifty (50) years imprisonment....”

In view of the above finding, it is clear that the High Court already substantively dealt with the issue of sentence of the applicant. By seeking further revision from this court, the applicant is asking this court to sit on appeal on its own decision. For avoidance of doubt, this court is functus officio in this matter. There is no reason advanced as to why the Applicant has opted not to proceed to the Court of Appeal if aggrieved by the decision of this court made on 5<sup>th</sup> May, 2020. I find the Applicant’s conduct is akin to playing lottery with the courts which should be discouraged.

6. In view of the foregoing observations, it is my finding that the applicant’s application dated 18/7/2023 is incompetent and lacks merit. The same is dismissed.

**DATED AND DELIVERED AT SIAYA THIS 31<sup>ST</sup> DAY OF OCTOBER, 2024**

**D. KEMEI**

**JUDGE**

In the presence of:

Julius Odongo Andere Applicant

M/s Kerubo for Respondent

Ogendo Court Assistant

