



REPUBLIC OF KENYA



KENYA LAW
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**EOO v Republic (Criminal Revision E011 of 2023)
[2024] KEHC 15102 (KLR) (25 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 15102 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E011 OF 2023
RE ABURILI, J
NOVEMBER 25, 2024**

BETWEEN

EOO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant/Convict is EOO. He was sentenced to serve life imprisonment vide Siaya PM SO Case No. 45/2013 on 19/1/2015. The victim of the offence of Incest charge under Section 20 (1) of the Sexual Offences Case was the convict's niece aged 9 years.
2. The convict appealed vide Siaya HCRA 34/2015 which appeal was heard and determined vide judgment rendered on 28/9/2017 upholding the conviction and affirming the sentence imposed.
3. The convict who is serving life imprisonment term at Naivasha GK Maximum prison now applies for revision of sentence on account that the sentence infringes on his fundamental rights and that he has a degree certificate, trained as a paralegal and attended spiritual courses. That he is reformed and rehabilitated ready for reintegration in the society.
4. I have considered the application for sentence revision dated 23/5/2023, the grounds and supporting affidavit.
5. The sentence imposed was lawful under Section 20 (1) of the *Sexual Offences Act*.
6. As to the constitutionality or otherwise of the mandatory sentences in Sexual offences, the Supreme Court in Petition E018/2023 *Republic v. Joshua Gichuki Mwangi* [2024] eKLR has clarified that the sentences are lawful and constitutional and that the principles laid down in the *Francis Muruatetu I* case only apply to murder cases not to all other cases where mandatory or minimum sentences prescribed and imposed.



7. Accordingly, as there was no irregularity or illegality in the life imprisonment imposed on the convict herein, whose appeal was dismissed by this court, I find no merit and residual jurisdiction and or discretion to review the life sentence imposed on the convict for the offence of incest with his 9-year-old niece.

8. The application for sentence revision dated 23/5/2023 is dismissed. Signal to issue. This file is closed.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 25TH DAY OF NOVEMBER, 2024

R. E. ABURILI

JUDGE

