



**Peter v Republic (Criminal Revision E085 of 2024)
[2024] KEHC 15108 (KLR) (25 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 15108 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E085 OF 2024
RE ABURILI, J
NOVEMBER 25, 2024**

BETWEEN

WANDERA PETER APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant is Wandera Peter. He was convicted of the offence of defilement contrary to Section 8(1) as read with Section 8(2) of the *Sexual Offences Act*, and sentenced to serve 20 years imprisonment vide Bondo PM SO Case No. 667 of 2016 on 15/1/2017.
2. The convict appealed to this court vide HCCRA 19/2017 which appeal was heard on merit and dismissed on 27/11/2018.
3. The convict now applies for sentence review because although he appealed to the High Court the judgment of the lower court, he has never received any response as an indication that his appeal was received. That the sentence is harsh.
4. As earlier stated, there is judgment of this court dismissing the appeal which was heard inter partes hence the convict is a liar because in the said appeal, the convict herein as the appellant therein filed written submissions which he adopted on 19/9/2018 and the prosecution led by Mr. Okachi Senior principal prosecution Counsel submitted orally and the appellant responded saying he did not commit the offence.
5. The judgment was set for 27/11/2018 and was delivered in his presence virtually from prison.
6. The above notwithstanding, there is no residual jurisdiction or discretion in this court to revise lawful sentence imposed by the court of competent jurisdiction and especially with more authoritative clarity by the Supreme Court in Petition E018/2023 *R v Joshua Gichuki Mwangi* where the Supreme Court



faulted the Court of Appeal for reducing sentence in sexual offences cases on account of alleged unconstitutionality.

7. The Supreme Court has pronounced itself and this court is bound by that pronouncement that the sentences, whether minimum or mandatory under the *Sexual Offences Act* and or other statutes are lawful and not constitutional and that the Francis Muruatetu decision I only applies to murder cases under Section 2023 as read with Section 204 of the *Penal Code*.
8. Accordingly, I find no merit in this application dated 26/5/2024 for sentence revision and the same is hereby dismissed. This file is closed.
9. Signal to issue.

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

R. E. ABURILI

JUDGE

