



**Republic v Chirchir (Miscellaneous Criminal Application E095 of 2024)  
[2024] KEHC 16071 (KLR) (20 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16071 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
MISCELLANEOUS CRIMINAL APPLICATION E095 OF 2024  
HI ONG'UDI, J  
DECEMBER 20, 2024**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**FESTUS KIPKOECH CHIRCHIR ..... RESPONDENT**

**RULING**

1. Festus Kipkoech Chirchir was charged and convicted of the offence of defilement under section 8(1) as read with section 8(3) of the [Sexual Offences Act](#) in Molo Chief Magistrate's Criminal Case (Sexual Offences) No. 75 of 2020.
2. Upon conviction on 23<sup>rd</sup> March, 2023 he was sentenced to twenty (20) years imprisonment.
3. He appealed against the Judgment vide Nakuru High Court Criminal Appeal No. E017 of 2023 where Judgment was delivered on 15<sup>th</sup> May, 2024. The High Court (Muhochi J) upheld both the conviction and sentence with an order that the sentence runs from 28<sup>th</sup> June, 2020, when the Applicant was arrested.
4. The Applicant filed this undated application seeking to have the court consider the application of section 333(2) of Criminal Procedure Code to his sentence.
5. The application was opposed by the State. Mrs Okok counsel for the respondent submitted that what the applicant sought had already been dealt with on Appeal.
6. Upon perusal of the lower court record and the High Court record, I am
7. satisfied that the omission by the trial Magistrate in not applying the provisions of section 333(2) Criminal Procedure code, was addressed on Appeal by Justice Muhochi. That issue is therefore moot and cannot be addressed by this court again. If he is dissatisfied he should move to the Court of Appeal.



8. The application is found to lack merit and is hereby dismissed.

9. Orders accordingly.

**DELIVERED, VIRTUALLY DATED AND SIGNED THIS 20<sup>TH</sup> DAY OF DECEMBER, 2024 IN  
OPEN COURT AT NAKURU.**

**H. I. ONG'UDI**

**JUDGE**

