



REPUBLIC OF KENYA



**Apiyo v Republic (Criminal Petition E021 of 2022)
[2023] KEHC 2983 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2983 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL PETITION E021 OF 2022
RE ABURILI, J
MARCH 24, 2023**

BETWEEN

JOSHUA OMANGA APIYO PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. The Petitioner herein Joshua Omanga Apiyo by his petition for resentencing filed on October 5, 2022 claims that he was convicted and sentenced to serve life imprisonment by Nyando Senior Resident Magistrate's Court *vide* Sexual Offences Case No 1245 of 2016 and that he appealed *vide* Kisumu HCCRA No 44 of 2017 which appeal was dismissed on June 25, 2018.
2. He does not mention whether or not he appealed to the Court of Appeal. He claims that he has now reformed and that the court to consider Section 333(2) of the *Criminal Procedure Code* in resentencing him.
3. I have considered the Petition which is not supported by any documents at all. No proceedings from the lower court or on Appeal were annexed, yet on a 1st appeal, the court serves the Appellant and ODPP with the records of the trial court.
4. I find nothing upon which I can review such sentence imposed on a serious offence of defilement contrary to Section 8(1) as read with Section 8(2) of the *Sexual Offences Act*.
5. The Petition is therefore found to be devoid of any merit. It is hereby dismissed.
6. The Petitioner/Convict can file a fresh petition with supporting documents for consideration on merit by this court.
7. Signal/order to issue and served upon the Petitioner in prison.



8. This file is now closed.

9. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 24TH DAY OF MARCH, 2023

R. E. ABURILI

JUDGE

