



**Njoroge v Republic (Criminal Miscellaneous Application  
E043 of 2022) [2023] KEHC 21668 (KLR) (23 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 21668 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
CRIMINAL MISCELLANEOUS APPLICATION E043 OF 2022**

**GL NZIOKA, J  
AUGUST 23, 2023**

**BETWEEN**

**ISSAC MWANGI NJOROGE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. By an application filed on the 28<sup>th</sup> day of July 2022, the applicant is seeking for sentence review in criminal case No. 197 of 2011 at Naivasha before the Chief Magistrate's Court where he was charged with the offence of incest contrary to section 20(1) of the *Sexual Offences Act* No. 3 of 2006 and sentenced to serve life imprisonment.
2. He further seeks that the court do take into account the provisions of section 333(2) of the *Criminal Procedure Code* and apply the same accordingly.
3. He relies on the supporting affidavit he has sworn filed on the even date and the submissions filed to canvass the application. The respondent did not file any response to the application.
4. Be that as it were, the court record reveals that after judgment was delivered by the trial court on the August 15, 2011, the appellant filed an appeal No. 203 of 2011 at the High Court at Nakuru. By a letter dated October 4, 2011, the Hon. Deputy Registrar at Nakuru High Court requested for the proceedings of the trial court. Subsequently the appeal was heard and dismissed in its entirety vide a judgment of the court delivered on July 19, 2013.
5. The applicant then filed an appeal at the Court of Appeal. The results thereof is unknown save for an indication that, he wrote to the Deputy Registrar of the Court of Appeal at Nakuru seeking for withdrawal of that appeal. The subject letter is dated May 13, 2020.



6. Pursuant to the aforesaid and in particular the fact that, this court heard and determined the first appeal relating to the subject matter herein, it is functus officio and this application is not tenable. It is actually an abuse of the process of court. The Hon. Deputy Registrar should note the particulars of the applicant in the “black book” and/or register and monitor any further application.
7. The applicant should pursue his appeal in the Court of Appeal if it has not been withdrawn. Consequently, the application herein is struck out for want of jurisdiction.
8. It is so ordered.

**DATED, DELIVERED AND SIGNED THIS 23<sup>RD</sup> AUGUST 2023.**

**GRACE L. NZIOKA**

**JUDGE**

**In the presence of:**

**The applicant in person virtually**

**Mr Atika for the respondent**

**Ms Ogutu: Court Assistant**

