



**Christina v Republic (Criminal Revision E248 of 2022)
[2023] KEHC 22768 (KLR) (28 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22768 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL REVISION E248 OF 2022
GMA DULU, J
SEPTEMBER 28, 2023**

BETWEEN

JULIUS JULAI CHRISTINA PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. Before me is a petition for revision of sentence dated 20th May 2022, which was also filed with a Chamber Summons.
2. In the short petition which constitutes one paragraph, the petitioner/applicant Julius Julai Christina begs for revision of the sentence imposed on him for the offence of robbery with violence from the judgment in the SRM Court Voi Criminal Case No. 417 of 2004, wherein judgment was delivered on 2nd February 2005.
3. The petition was filed with a supporting affidavit sworn by the petitioner on 19th May 2022, in which it was deponed that the petitioner was charged with robbery with violence contrary to Section 296(2) of the Penal Code and sentenced to suffer death; that his appeals to the High Court and Court of Appeal were dismissed; that his sentence was commuted to life imprisonment by the President in 2009; that life imprisonment violates his rights under Article 26 of *the Constitution*; that imprisonment for life violates the right to equal protection and equal benefit of the law provided under Article 27(1) of *the Constitution*; that life imprisonment is inhuman, degrading and hence violates Article 29 of *the Constitution*; that life imprisonment deprives the inherent dignity of a person as provided by Article 28 of *the Constitution*; that this court has jurisdiction to review the sentence and substitute it with a definite sentence. As stated above, the petition was filed with an application seeking similar review of sentence orders from this court.



4. The petition was canvassed through written submissions, and in this regard, I have perused and considered the submissions filed by the petitioner, as well as the submissions filed by the Director of Public Prosecutions. It is worth stating that the petitioner relied on the case of Thomas Mwambu Wenyi =Versus= Republic (2017) eKLR in which the Indian case of Alister Anthony Pereira =Versus= State of Maharashtra was cited. On the other hand, the Director of Public Prosecutions relied on the case of *Daniel Otieno Oracha =Versus= Republic* (2019) eKLR, and that both cases relate to sentencing.
5. It is a fact that the petitioner, who is also described as an applicant was sentenced to suffer death for the offence of robbery with violence contrary to Section 296(2) of the *Penal Code* in Voi CM Criminal Case No. 417 of 2004. He appealed to the High Court in Mombasa High Court Criminal Appeal No. 41 of 2005, which appeal was dismissed. He thereafter appealed to the Court of Appeal in Mombasa Criminal Appeal No. 84 of 2009 (2010) eKLR and his appeal was dismissed. His sentence was thereafter commuted to life imprisonment by the President.
6. Having considered the Petition and Chamber Summons filed, as well as the arguments on both sides, I am of the view that this petition has not met the standards of a proper constitutional petition.
7. In my view, a proper constitutional petition should comply with the applicable rules, latest of which are popularly called the 'Mutunga Rules'. Those rules require the main body of the petition to contain the specific violations and Articles of *the Constitution* violated, and the specific reliefs sought. The petition herein being only one paragraph, does not meet those standards of specificity for consideration by a court and determination.
8. I thus find no basis for substantive determination of the Petition or Chamber Summons herein. I strike out both the Petition and Chamber Summons herein.
9. For the avoidance of doubt, the petitioner/applicant may file a proper constitutional petition according to the existing rules, if he so wishes.

DATED, SIGNED AND DELIVERED THIS 28TH DAY OF SEPTEMBER 2023 IN OPEN COURT AT VOI.

GEORGE DULU

JUDGE

In the presence of:-

Nusura – Court Assistant

Petitioner/Applicant

Mr. Sirima for State

