



REPUBLIC OF KENYA



KENYA LAW
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**Jackson v Republic (Petition E035 of 2023)
[2023] KEHC 24070 (KLR) (25 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24070 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
PETITION E035 OF 2023
GMA DULU, J
OCTOBER 25, 2023**

BETWEEN

SIMON JACKSON PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. In this matter designated on a petition, but filed by way of application which is undated, the applicant seeks the following orders:-
 1. That the court be pleased to review the sentence and grant him lenient sentence informed by his mitigation and unique facts and circumstances of his case pursuant to article 50(2) (p) (q) of *the Constitution* of Kenya.
 2. That he begs the court to commute the life sentence that was given by the Kenya Court of Appeal to the earlier sentence of (20 years) that was imposed on him by the Magistrate's court.
 3. That the period spent in custody be computed into he eventual sentence to be awarded pursuant to the provisions of section 333(2) of the *CPC* and also pursuant to *Abmed Abolgathi Mohamed & Another =Versus= Republic* (2018) eKLR.
2. The application was filed with a notice of motion seeking that this court do hear the application as a priority.
3. The application was also filed with a supporting affidavit sworn by the applicant on 24th January 2023 citing a number of decided court cases.
4. Filed with the application is copy of the judgment in Taveta SRM Criminal Case No. 128 of 2011, and judgment in Mombasa High Court Criminal Appeal No. 185 of 2011, as well as Mombasa Court of Appeal Criminal Appeal No. 23 of 2015 – *S.J=Versus= Republic* (2016) eKLR.



5. It is of note that the trial court and the High Court pronounced a sentence of twenty (20) years imprisonment. However, the Court of Appeal considered that the victim of defilement was 9 years old, a sister of the appellant and concluded that the sentence of 20 years imprisonment imposed by the trial court and upheld by the High Court was illegal and enhanced it to life imprisonment.
6. Instead of appealing to the Supreme Court, the appellant has come to this court seeking review of the Court of Appeal sentence inter alia, relying on the provisions of section 333(2) of the *Criminal Procedure Code* (Cap.75).
7. In my view, this court has no jurisdiction or powers to review the sentence of the life prison sentence of the Court of Appeal, which court gave reasons for enhancing the sentence to life imprisonment.
8. In my view, the only avenue that could be available to the applicant herein was to approach the Supreme Court to reconsider the enhancement of sentence, and not to come to this court for review of sentence.
9. The application is thus dismissed.

DATED, SIGNED AND DELIVERED THIS 25TH DAY OF OCTOBER 2023 AT VOI.

GEORGE DULU

JUDGE

In the presence of:-

Alfred – Court Assistant

Applicant

Mr. Sirima for State

