



**Din v Republic (Miscellaneous Criminal Application
E049 of 2021) [2022] KEHC 10269 (KLR) (24 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 10269 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CRIMINAL APPLICATION E049 OF 2021**

WM MUSYOKA, J

JUNE 24, 2022

BETWEEN

RICHARD DIN APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant in this matter seeks a review of sentence under section 333(2) of the *Criminal Procedure Code*, Cap 75, Laws of Kenya, and prays to be placed on probation. He would like the time he spent in remand to be reckoned in determining his final sentence.
2. He avers that the trial court had sentenced him to fifteen years imprisonment for defilement, contrary to section 8(2) of the *Sexual Offences Act*, No. 3 of 2006, Laws of Kenya.
3. The applicant has an arguable case. It merits consideration, but I will not be able to exercise discretion under section 333(2) of the *Criminal Procedure Code*, unless I have sight of the trial records, and the appeal records from the High Court and the Court of appeal.
4. Consequently, I do hereby direct the Deputy Registrar to call for the trial records in Butali Pmcrc No. 698 of 2011, and the judgment in Kakamega HccraNo. 146 of 2012.
5. The matter shall be mentioned on 29th July 2022. A production order shall issue. Copies of this ruling to be made available to the applicant and the Office of the Director of Public Prosecutions.

DELIVERED, DATED AND SIGNED AT KAKAMEGA ON THIS 24th DAY OF JUNE 2022

WM MUSYOKA

JUDGE

Erick Zalo, Court Assistant.



Richard Din, the applicant, in person.

Mr. Mwangi, instructed by the Director of Public Prosecutions, for the respondent.

