



REPUBLIC OF KENYA



KENYA LAW
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**Lusike v Republic (Criminal Petition E001 of 2022)
[2022] KEHC 10463 (KLR) (24 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 10463 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL PETITION E001 OF 2022
WM MUSYOKA, J
JUNE 24, 2022**

BETWEEN

SAMMY LUSIKE PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. On January 14, 2022 I delivered a ruling on the matter of re-sentencing of the petitioner herein in view of *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ & P, Mwilu DCJ & VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ) and *Francis Karioko Muruatetu & another vs. Republic; Katiba Institute & 5 others (Amicus Curiae)* [2021] eKLR (Koome CJ & P, Mwilu DCJ & VP, Ibrahim, Wanjala, Njoki, Lenaola & Ouko SCJJ).
2. There has however been a new development with regard to offences defined under the *Sexual Offences Act*, No. 3 of 2006. The High Court, in *Philip Mueke Maingi & others vs. Director of Public Prosecutions & another* Machakos HCPet. No. E017 of 2021 (Odunga J), on May 17, 2022, gave directions, with respect to mandatory sentences for sexual offences, akin to those given in *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ & P, Mwilu DCJ & VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ).
3. The petitioner herein had been convicted of such offences. To enable me exercise discretion in the matter in the manner ordered or directed in *Philip Mueke Maingi & others vs. Director of Public Prosecutions & another* Machakos HCPet. No. E017 of 2021 (Odunga J), I do hereby direct the Deputy Registrar to call for the trial records in Butere PMCCRC No. 315 of 2010 and Kakamega HCCRA No. 107 of 2010.
4. The matter shall be mentioned on July 28, 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 IN OPEN COURT AT KAKAMEGA ON THIS 24th DAY
OF June 2022**

WM MUSYOKA

JUDGE

Erick Zalo, Court Assistant.

Sammy Lusike, the petitioner, in person.

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

