



**Musungu v Republic (Miscellaneous Criminal Application
44 of 2020) [2022] KEHC 10303 (KLR) (24 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 10303 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CRIMINAL APPLICATION 44 OF 2020**

WM MUSYOKA, J

JUNE 24, 2022

BETWEEN

YOSIA MUSUNGU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Motion, undated but filed herein on 10th September 2020, seeks review of sentence. The applicant had been convicted and sentenced, in Butali PMCCRC No. 38 of 2019, on a charge of simple robbery contrary to sections 295 and 296(1) of the *Penal Code*, Cap 63, Laws of Kenya.
2. The applicant filed an appeal against that conviction and sentence in Kakamega HCCRA No. 86 of 2019, and the said appeal was dismissed, on 23rd July 2020. The issues that the applicant is now raising should have been raised in that appeal. What the appellant is doing is to seek to have a second bite at the sherry.
3. The application is an abuse of the court process. It is hereby dismissed. 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.

Yosia Musungu, the applicant, in person.

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

