



**Kairu v Republic (Miscellaneous Criminal Application  
E003 of 2022) [2022] KEHC 11165 (KLR) (29 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 11165 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
MISCELLANEOUS CRIMINAL APPLICATION E003 OF 2022**

**CM KARIUKI, J**

**JULY 29, 2022**

**IN THE MATTER OF REVIEW OF SENTENCE UNDER ARTICLES 22(1), 27(1), 47(1), 48,  
50(1), AND 29 (Q) 160 (1) 159 (A) (B) AND 165(3) OF THE CONSTITUTION OF KENYA 2010**

**BETWEEN**

**PETER KURIA KAIRU ..... PETITIONER**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. By an Application dated and filed on 12/1/2022, the Appellant seeks revision of his sentence as he has served 11 years six months of his 25 years imprisonment by the remission, leaving (according to him) a balance of 5 years to serve.
2. He was convicted and sentenced to 25 years for inflicting grievous harm to his wife and son.
3. He is basing his Application on claim that he has reformed, is of good conduct, and has a bundle of recommendation documents.
4. He has already served 11 years and six months by lodging the Application herein.
5. The Prosecution left it to the discretion of the Court to determine the Application. However, the ODPP informed Court that the Applicant appealed, and he was unsuccessful, and the High Court-Appeal upheld the conviction and sentence.
6. I have noted the content of the proceedings and the judgment of the Trial Court and Appellate Court (High Court).
7. The review of revisionary powers of the High is anchored in Sections 362 and 364 *CPC* and Article 165 (b) of *the Constitution*.



8. The Court is allowed to review the orders of the trial court where a mistake, illegality, or irregularity is found once occurred or where facts orders were given without jurisdiction see:  
*George Gathura Murage - versus - Republic* [2021] eKLR. In the instant matter, the sentence was by the High Court on appeal as lawful. Thus, this Court has no jurisdiction to review the legal Order of sentence under cited provisions.
9. The other option is placing the Applicant in a Community Service Order. But this requires a convict to benefit from the provisions cited under Section 3 of the *Community Service Order Act*. In addition, he must be either convicted for three years, or the Court determines a sentence of fewer than three years.
10. Further enquiring is to be made a *Community Service Order*, and a recommendation is made on the suitability of Applicant performance of the Community under the Order.
11. Thus, after perusing the cited Provisions for *Constitution CPC*, CSO, and after going through the record, I find Applicant has not met the threshold for either revision or Community Service Order (CSO).
12. Thus, the Application is rejected.

**DATED, SIGNED, AND DELIVERED AT NYAHURURU THIS 29TH DAY OF JULY 2022.**

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**CHARLES KARIUKI**

**JUDGE**

