



REPUBLIC OF KENYA



**Ndeti v Republic (Criminal Revision E074 of 2022)
[2022] KEHC 12612 (KLR) (Crim) (28 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 12612 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL REVISION E074 OF 2022
JM BWONWONG'A, J
JULY 28, 2022**

BETWEEN

JACKSON RUCINDA NDETI APPLICANT

AND

REPUBLIC RESPONDENT

(Being an application for revision from the judgement of Hon. E. Kanyiri, SPM, in the Chief Magistrates' Court at Makadara in Criminal Case No. 40 of 4740, Republic v Jackson Rucinda Ndeti)

RULING

1. The applicant moved this court under certificate of urgency in which he has sought the following major orders.
 1. Spent
 2. An order to set aside his custodial sentence and in its place impose a non-custodial sentence to enable him take care of his young family.
2. The application is supported by a six paragraphs supporting affidavit; whose major averment are as follows. He was sentenced to ten years imprisonment in respect of the offence of defilement. He is remorseful. He is a first offender. He prays for a non-custodial sentence.
3. For reasons that I will set out below, I declined to hear the Director of Public Prosecutions (DPP).



Findings of the court

4. After perusing the record of the proceedings, I find that on 22nd May 2019 the applicant withdrew a similar application for revision in respect of the same sentence before Hon. Lady Justice G.W. Ngenye-Macharia, as she then was, and as a result the application was marked as withdrawn and the file was closed.
5. I find that the present application is an abuse of the court process.
6. In the circumstances, the application fails and is hereby struck out for being incompetent.

RULING SIGNED, DATED AND DELIVERED IN OPEN COURT AT NAIROBI THROUGH VIDEO CONFERENCE ON THIS 28TH DAY OF JULY 2022.

J M BWONWONG'A

JUDGE

In the presence of-

Mr. Kinyua: Court Assistant

The applicant in person

Ms Akunja for the Republic/respondent

