



**Ochieng v Republic (Miscellaneous Criminal Application E009 of 2022)  
[2022] KEHC 13166 (KLR) (23 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13166 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION E009 OF 2022  
RE ABURILI, J  
SEPTEMBER 23, 2022**

**BETWEEN**

**KENNEDY ODUOR OCHIENG ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application arising from Judgment, conviction and sentence in Siaya PM's court Sexual Offence Case No. 627 of 2016 delivered on 27/4/20178 by Hon. C.A. Okore, Senior Resident Magistrate AND Siaya High Court Criminal Appeal No. 45/2017)*

**RULING**

1. The applicant Kennedy Oduor Ochieng was convicted for the offence of defilement contrary to Section 8(1) and as read with Section 8(3) of the *Sexual Offences Act* by the trial court in Siaya Sexual Offence No. 627/2016.
2. He appealed to this court vide HCRA No. 45/2017. That appeal was dismissed on 28/1/2019. He appealed to the Court of Appeal and this court's original file was forwarded to the Court of Appeal. He is now back seeking for resentencing. This cannot resentence the appellant whose appeal is still pending before the Court of Appeal as he can articulate his case better before the Court of Appeal, both on conviction and sentence.
3. I find this application for resentencing devoid of any merit. It is hereby dismissed.
4. File closed.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 23<sup>RD</sup> DAY OF SEPTEMBER, 2022**

**R.E. ABURILI**

**JUDGE**

