



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL PETITION NUMBER 3 OF 2019

PAUL MURIUKI KAROKI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The petitioner herein was charged, tried and found guilty of the offence of **Robbery with Violence Contrary to Section 296(2) of the Penal Code** in 589 of 2000. He was tried, convicted and sentenced to death. His appeals here and above were dismissed on 24th February 2006 and 12th November 2015 respectively.

2. The petitioner herein filed undated Notice of Motion supported by his affidavit seeking orders;

1. THAT application be certified urgent and be heard on priority basis.

2. THAT the honorable court be pleased to hear a re- sentence and mete out the appropriate sentence.

3. He relies on the case cited as **William Okungu Kittiny vs R [2018] eKLR** and the principle laid out in the **Muruatetu Case**.

4. When the application was heard he urged this court to proceed and resentence him accordingly.

5. The state through Ms. Murunga pointed out that the applicant having been charged with robbery with violence, the rightful place for his application was before the Chief Magistrate.

6. The applicant in response pointed out that this court had recently resented other applicants facing similar situations. Those matters are cases where the matter was heard by this court i.e murder cases. For robbery with violence cases those matters were heard by the learned magistrates. The learned prosecuting counsel is right.

7. This is in line with the Supreme Court's holding in **Francis Karioko Muruatetu & another v Republic [2017] eKLR** at **paragraph 111** where it is stated:

It is prudent for the same Court that heard this matter to consider and evaluate mitigating submissions and evaluate the appropriate sentence befitting the offence committed by the petitioners.

8. Without going into the merits of the application, I direct that the same be placed before the Chief Magistrate for hearing and determination.

9. The matter be mentioned before the Chief Magistrate on the 11th May 2021 for directions.

DATED AND DELIVERED VIA ZOOM THIS 27TH APRIL 2021.

Mumbua T Matheka

Judge

In the presence of:

Edna Court Assistant

For State: Ms Murunga

Applicant: Present at Nakuru Main GK prison via ZOOM

Mumbua T Matheka

Judge