



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

(CORAM: CHERERE- J.)

CRIMINAL PETITION NO. E008 OF 2020

BETWEEN

KENNETH MUTETHIA MURIUKI.....PETITIONER

AND

REPUBLIC.....RESPONDENT

JUDGMENT

- 1) By a judgment in **MERU HC. CR.C. NO. 68 OF 2013**, Petitioner was convicted for murder and sentenced to suffer death
- 2) His appeal to the Court of Appeal vide **NYERI CRIMINAL APPEAL NO. 139 OF 2017** was successful and he was found guilty of manslaughter and sentenced to serve 15 years from 18th July, 2017 when he was sentenced.
- 3) Section 205 of the Penal Code provides that Manslaughter
Any person who commits the felony of manslaughter is liable to imprisonment for life.
- 4) The Court of Appeal in its wisdom finding the Petitioner guilty of manslaughter exercised its discretion and sentenced him to serve 15 years from 18th July, 2017 when he was initially sentenced by the High Court.
- 5) I have considered the principle in the *Muruatetu case* and I find that it is not applicable to this case for the reason that the Petitioner was neither sentenced to a mandatory minimum nor maximum sentence.
- 6) And even if the Petitioner is of the view that the sentence ought to have taken into account the period spent in custody, his remedy lies not with this court but with the Court of Appeal for the reason that this court lacks jurisdiction to review a Court of Appeal decision.
- 7) From the foregoing, I find that this Petition is misguided and it is disallowed.

DELIVERED AT MERU THIS 20th DAY OF May 2021

T. W. CHERERE

JUDGE

In the presence of-

Court Assistant - Kinoti

Petitioner - Present

For Petitioner - Mr. Omari for Kaberia Arimba & Co. Advocates

