



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAROK**  
**MISC CRIMINAL PETITION APPLICATION NO. 8 OF 2019**

***(CORAM: F.M. GIKONYO J.)***

***(Revision from Original Conviction/Sentence in Criminal Case No. 1898 Of 2014 Of the Chief Magistrate's***

***Court at Narok and HCCRA 21 of 2015 at Narok)***

**JEREMIAH SAWE MARITA.....PETITIONER**

**-versus-**

**REPUBLIC.....RESPONDENT**

**RULING**

**Introduction**

[1] Before me is an undated application filed on 17<sup>th</sup> July 2019 seeking for orders of a rehearing and resentencing pursuant to the Supreme Court decision in the matter of ***Francis Karioko Muruatetu & Another –vs- Republic [2017] eKLR*** and the decision in ***William Okungu Kittiny Vs Republic [2018] eKLR***.

[2] The applicant was convicted and sentenced to life imprisonment in respect of the offence of defilement contrary to section 8(1) (2) of Sexual Offences Act No. 3 of 2006. He filed appeal; **Narok HCCRA 21 of 2015** which appeal was dismissed.

[3] When this application came before Bwonwong'a J. on 28/01/2020, the judge made an order that the applicant's application be remitted to CM's court for resentencing and it be mentioned on 18/02/2020 before the CM's court.

**Petitioner's submission**

[4] The Petitioner argued that he only pleads for re-sentencing. He insists that he has not been resentenced.

**Prosecution's submission**

[5] Ms. Koina, prosecuting counsel for the Respondent opposed the application. She argued that the High Court has pronounced itself. Therefore, this court does not have jurisdiction to determine the petition. She opined that the applicant should seek redress in an appeal to the Court of Appeal. She urged the court to dismiss the application.

**ANALYSIS AND DETERMINATION**

[6] The applicant sought re-sentencing on the basis of Muruatetu decisional law. However, Bwonwong'a J. on 28<sup>th</sup> January, 2020 ordered: -

***Appellant's application remitted to CM's court for re-sentencing.***

[7] Although the court did not give any reason or the basis for the order, such order is not unprecedented given the procedural spin brought about by Muruatetu decision. From the record, there is no order setting aside the life sentence so as to give way to re-sentencing. In the circumstances, it is only appropriate that I give appropriate directions on the petition for resentencing after hearing the parties so as to avert apparent muddle in the matter. It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAROK THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 19TH**

DAY OF MAY 2021

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F. M. GIKONYO

JUDGE

In the presence of:

1. The applicant
2. Ms. Torosi for the Republic
3. Mr. Kasaso CA

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F. M. GIKONYO

JUDGE