

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION E021 OF 2021

MICHAEL ONYANGO OCHIENG.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Revision Application from the judgment, conviction and sentence in UKWALA SRM'S MAGISTRATES COURT NO. 38 OF 2021 by HON. G. ADHIAMBO – S.R.M., HC CRA 131 2016 OF 2016 BY HON J.A. MAKAU - J)

RULING

1. **Michael Onyango Ochieng** was convicted for the offence of **defilement contrary to section 8(1) as read with section 8(3) of the Sexual Offences Act**. He was sentenced to serve 10 years imprisonment.
2. He filed an appeal before this court vide High Court Criminal Appeal Number 131 of 2016 which appeal was against conviction and sentence. However, at the hearing, he withdrew the challenge against conviction and implored the court to consider sentence reduction (**resentencing**) after he mitigated. As the convict had been sentenced to a minimum sentence under **section 8(3) of the Sexual Offences Act**, the court exercised discretion, taking into account the period spent in custody and prison prior to the trial hearing of the appeal, and resented him vide judgment delivered on 8.3.2021 to serve 5 years imprisonment to run from 3.10.2016 when he was sentenced in the lower court.
3. He is now before court for sentence review. Regrettably, this court has exhausted its jurisdiction and discretion in sentencing. I have considered the Probation Report filed on 15.6.2021. I find the application lacking in merit and legal basis and proceed to dismiss it.
4. Filed Closed.
5. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 30TH DAY OF JUNE, 2021

R.E. ABURILI

JUDGE