



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

MISC. CRIMINAL APPLICATION NO. EO51 OF 2021

GERALD MUIRURI WATHIKA.....APPLICANT

VS.

REPUBLIC.....RESPONDENT

RULING ON REVIEW

1. **GERALD OGUTU** was convicted by Gatundu Chief Magistrate’s Court with the offence of robbery with violence. His appeal before Kiambu High Court, Criminal Appeal No. 126 of 2016 was dismissed.

2. He has approached this Court through Notice of Motion dated 24/5/2021 seeking for re-sentencing as decided by the case of **MURUATETU & ANOTHER VS. REPUBLIC (2017) eKLR.**

3. The application is dismissed because the Supreme Court in **Petition No. 15 & 16 of 2015** (Consolidated) between **FRANCIS KIARIOKO MURUATETU & ANOR AND REPUBLIC & OTHERS** gave further directives on the application of the earlier decision in that petition of 14th December, 2017. The further directives were issued by the Supreme Court on 6th July, 2021. By those directives the Supreme Court stated thus:-

“The decision of Muruatetu and these guidelines apply only in respect to sentences of murder under Section 203 and 204 of the Penal Code.”

4. It therefore follows that there is no basis to grant the orders sought in the Notice of Motion dated 24th May, 2021. It is therefore dismissed.

RULING DATED, SIGNED AND DELIVERED AT KIAMBU THIS 27TH DAY OF SEPTEMBER, 2021.

MARY KASANGO

JUDGE

Coram:

Court Assistant.....Nancy

Applicant:Gerald Otieno

Respondent:Mr. Kasyoka

COURT

RULING delivered virtually.

MARY KASANGO

JUDGE