



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MIGORI**

**CRIMINAL PETITION NO. E040 OF 2021**

**GORDON OKATCH OKETCH.....APPELLANT**

**-versus-**

**REPUBLIC..... RESPONDENT**

**JUDGMENT**

The Petitioner **Gordon Okatch Oketch**, was convicted and sentenced to thirty (30) years imprisonment for the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the Sexual Offences Act in Criminal case No. 89 of 2007 (Senior Resident Magistrate Rongo). He appealed in Migori HCRA 32 OF 2017 and J. Mrima dismissed the said appeal on 24/5/2018.

The petitioner has now moved this court under Articles 22, 23, 25 and 165 of the Constitution Section 354 of the Criminal Procedure Code and Articles 50(2)(q) of the Constitution praying that the court do exercise leniency and reduce his sentence because he has been rehabilitated.

Mr. Kimanthi the prosecution counsel opposed the Petition for reasons that the petitioner deponed his supporting affidavit that he did not appeal to the court of appeal because of lack of grounds; that he is bound by the pleadings that if he had any issues to raise on appeal, he should have raised all of them before J. Mrima when he heard the appeal. He urged this court to dismiss the petition.

I have considered the petition. Though the petitioner has invoked constitutional provisions, he never alluded to breach of any of his constitutional rights.

The petitioner admitted to having been heard on appeal by J. Mrima. The appeal was dismissed. He decided not to appeal because he had no grounds upon which to appeal. This court has no supervisory jurisdiction over the decision of another High Court. If the petitioner is aggrieved by J. Mrima's decision, he should move to the court of appeal for redress.

The petition lacks merit and is hereby dismissed.

**DELIVERED, DATED AND SIGNED AT MIGORI THIS 23RD DAY OF SEPTEMBER, 2021.**

**R. WENDOH**

**JUDGE**