

THE REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

PETITION NO. 27 OF 2020

(CONSOLIDATED WITH PETITION NO. 194 OF 2018)

FRANCIS MUSYOKA NZAU.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

1. The petitioner herein was charged before the court at Meru CMCCR 2072 of 2006, was tried and convicted of the offence of defilement contrary to Section 8(1) (2) of the Sexual Offences Act No. 3 of 2006, in Meru Criminal Case No. 2072 of 2006. at the end of the trial, he was found guilty as charged and sentenced to serve life imprisonment
2. He appealed against that decision in High Court at Meru in Criminal Appeal No. 78 of 2008 lost, did not lose the hope and appealed to the Court of Appeal in Criminal Appeal No.76 of 2014. Nonetheless, in both instances, his appeals were dismissed and the sentence upheld.
3. The petitioner has now approached the court pleading with the court to give him a lesser sentence, other than life. In his submissions filed on 27/8/2020, he confirms that he has undergone several bible courses to help know God and be a better citizen.
4. In urging the petition, and unlike in most of these petitions where the petitioners appear in person, no written submissions were filed with the petitioner making very brief oral submissions. His plea was that he be given any lesser sentence other than life sentence
5. In opposing the petition, the prosecution contends that the petitioner plea is not tenable for the reasons that he was not convicted of murder and thus eligible to re-sentencing in terms of the decision of the Supreme court in *Muruatetu's* case.
6. For the reason that the petitioner was charged and convicted of the offence of defilement and not murder, the case of *Francis Karioko Muruatetu &*