

THE REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

PETITION NO. 28 OF 2020

PETER GITONGA.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

1. The petitioner herein was charged with and convicted of the offence of defilement contrary to Section 8(1) (2) of the Sexual Offences Act No. 3 of 2006, in Nkubu Criminal Case No. 1900 of 2009. at the end of the trial, the court found him guilty and meted out a sentence of life imprisonment
2. He challenged both conviction and sentence before the High Court in Meru High Court, Criminal Appeal No. 54 of 2011 but did not succeed in upsetting the decision then proceeded to the Court of Appeal in Criminal Appeal No.135 of 2014 which equally fail. He is today staring at serving the sentence for the rest of his life.
3. In this petition, he urges the court to reduce his sentence so that he can get his liberty back by being given a sentence lesser than life imprisonment. In the submissions filed on 27/8/2020, he states that he has undergone several trainings in prison, which have impacted on his spirituality and morality and exhibited some nine certificates in that regard.
4. The prosecutor, in oral submissions, vehemently opposed the petition and prayed for its dismissal on the basis that having been convicted of the offence of defilement he is not eligible for re sentencing.
5. In view of the Supreme Court's directives issued on 6/7/2021 to the effect that the case of *Francis Karioko Muruatetu & another v Republic [2017] eKLR* is only applicable to the offence of murder, the petition is bereft of merits and is accordingly dismissed.

DATED SIGNED AND DELIVERED AT MERU THIS 19TH DAY OF NOVEMBER, 2021

Patrick J.O Otieno

Judge

In presence of

Petitioner in person

Mr. Maina for the respondent

Patrick J.O Otieno

Judge