



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT KERUGOYA**

**CRIMINAL PETITION NO. 32 OF 2019**

*(From original conviction and sentence in Criminal Case No. 227 of 2016*

*at Principal Magistrate’s Court at Wangúru Criminal Appeal No. 39 of 2016*

*of the High Court at Kerugoya)*

ELIUD MUNYI CINI.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

**JUDGMENT**

1. The Petitioner **Eliud Munyi Cini** was charged, convicted and sentenced to serve life imprisonment for the offence of defilement **Contrary to Section 8 (1) as read with Section 8 (2) of the Sexual Offences Act No. 3 of 2006, on the 27.6.2019.**

2. His appeal to this court against both conviction and sentence vide High Court Criminal Appeal No. 39 of 2016 was dismissed on the 27.6.2019.

3. Pursuant to the “**Muruatetu**” Supreme Court decision, the petitioner moved this court on the 8.11.2019 by this petition for sentence – rehearing seeking for reduction of the sentence.

The “**Muruatetu**” decision – **Supreme Court Petition No. 15 & 16 (consolidated) 2015**, delivered on 14.12.2017 untied the courts hands and gave them judicial discretion on sentencing, upon mitigation, on cases which carry minimum mandatory sentences. Following therefore, the courts embarked on hearing re-sentencing applications for offences among them **Robbery with Violence and Sexual Offences.**

4. However, on the **6.7.2021**, the Supreme Court, revisited its decision and gave policy guidelines and directions on the applicability of its earlier decision rendered on the 14<sup>th</sup> December, 2014, thus;

Paragraph 18: **The decision on “Muruatetu” and these guidelines apply only in respect of sentences of murder under Section 203 and 204 of the Penal Code.**

It therefore follows that no re-sentence hearing shall be entertained, including robbery with violence and sexual offences.

5. This petition, flowing from a defilement offence is therefore dismissed.

**DATED AND SIGNED THIS.....DAY OF.....2021**

**J. N. MULWA**

**JUDGE**

**DATED AND DELIVERED AT KERUGOYA THIS 18<sup>TH</sup> DAY OF NOVEMBER 2021**

**R. M. MWONGO**

**JUDGE**