

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

MISCELLANEOUS CRIMINAL APPLICATION NO. 57 OF 2020

BENARD MAKACHIA LITOKHO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. This matter was placed before me for the purpose of giving directions, in view of the recent decision by the Supreme Court in *Francis Karioko Muruatetu & another vs. Republic; Katiba Institute & 5 others (Amicus Curiae* [2021] (Koome CJ&P, Mwilu DCJ&VP, Ibrahim, Wanjala, Ndung'u & Lenaola SSJJ), with respect to mandatory sentences, where it was clarified that the decision, in *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ), had arisen from proceedings relating to murder, under section 204 of the Penal Code, Cap 63, Laws of Kenya, and the position stated in the said decision was intended to apply only to mandatory sentences with respect to murder cases.

2. The petition herein, undated, was filed herein on 17th November 2020. The same is so vague, that one cannot make out, from both the Motion and the affidavit sworn in support of it, what the applicant seeks. The matter was placed before the Deputy Registrar on 24th August 2021, who advised that the applicant ought to file a clearer petition.

3. It would serve no purpose to keep the file open. Should the applicant be minded to file a fresh petition, as advised on 24th August 2021, a fresh file shall be opened. In the meantime, the instant file is to be closed.

4. The Deputy Registrar shall cause copies of this ruling to be availed to the applicant and the office of Director of Public Prosecutions, Kakamega.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 20th DAY OF December 2021

W MUSYOKA

JUDGE