



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KAKAMEGA**

**MISCELLANEOUS CRIMINAL APPLICATION NO. 23 OF 2020**

**GEDION JUMA.....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 Motion herein, dated 4<sup>th</sup> March 2020, was filed herein on 15<sup>th</sup> April 2020, is not founded on the decision, in *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ), for the applicant seeks leave to appeal out of time. The orders to file appeal out of time were granted on 14<sup>th</sup> October 2020, as the respondent indicated that it did not oppose the application. This file should have been closed then. It should now be closed forthwith.

3. 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 20<sup>TH</sup> DAY OF DECEMBER 2021**

**W MUSYOKA**

**JUDGE**