

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APPLICATION NO.118 OF 2020

JANET KARAMANA GITUMA..... APPLICANT

VERSES

REPUBLIC.....RESPONDENT

RULING

The Applicant, Janet Karamana Gituma, made an application before this court in **Nairobi HC Misc. Criminal Application No.539 of 2018 Janet Karamana Gituma vs Republic** seeking reconsideration of her sentence pursuant to the Supreme Court decision of **Francis Kariokor Muruatetu & Anor vs Republic [2017] eKLR**. This court considered the application. In its ruling delivered on 21st May 2019, the court held thus:

“This court notes that the Applicant has already been in lawful custody for a period of ten (10) years. This court is of the view that that period is not sufficient punishment. However, the death sentence that was imposed on the Applicant is not called for in the circumstances. In the premises therefore, the death sentence is set aside and substituted by a sentence of this court of ten (10) years imprisonment with effect from today’s date. It is so ordered.”

Instead of the Applicant (she appears to have been aggrieved) appealing the decision to the Court of Appeal, she filed yet another application before this court seeking the same relief of sentence reconsideration. This court is of the considered view that the present application is filed in abuse of the due process of the court. This court cannot, and has no jurisdiction, to reconsider a reconsideration of sentence pursuant to the **Francis Kariokor Muruatetu** decision. The only remedy available to the Applicant is to file an appropriate appeal to the Court of Appeal challenging the decision of this court. She cannot, *ad infinitum*, pursue the review of the sentence before the High Court.

In the premises therefore, the Applicant’s application, being an abuse of the process of this court, is hereby dismissed. To prevent further abuse of the process of this court, she must first seek leave of this court before she files any further application in respect of the same matter. Her remedy lies with filing an appropriate appeal to the Court of Appeal. It is so ordered.

DATED AT NAIROBI THIS 29TH DAY OF JULY 2020

L. KIMARU

JUDGE