

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISCELLANEOUS CRIMINAL APPLICATION NO. E228 OF 2020

JOHN MAINA MACHARIA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

John Maina Macharia the Applicant is a convict for the offence of **robbery with violence** contrary to **Section 296(2)** of the **Penal Code**. He has exhausted all the processes of appeal. He is therefore seeking an order from this court directing the Lower Court (*Makadara*) to hear him on resentencing in accordance with the decision in **Francis Karioko Muruatetu v R [2017] eKLR**.

I have had a chance to read the directions in operation in this Division on resentencing in respect to the **Muruatetu** decision.

The Applicant had orally requested this court to do the resentencing. Besides his application there is no other document to enable this court deal with the matter, at the moment.

I therefore as per the operating directions order that the **Makadara Chief Magistrate's Criminal Case No. 6078 of 2003** be placed before a Magistrate with competent jurisdiction before that court for mitigation by the Applicant before resentencing.

The Applicant to be arraigned before the said court on 14th December 2020.

Orders accordingly.

Delivered, signed and dated in open court at Nairobi this 26th day of November, 2020.

H. I. ONG'UDI

JUDGE