

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

CRIMINAL MISC. APPLICATION NO. 24 OF 2019

DKN.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

1. **DKN** appealed against the decision of the trial Court which convicted him for the offence of **Incest** contrary to **Section 20(1)** of the **Sexual Offences Act**. This Court considered the Appeal, confirmed the conviction, set aside the sentence imposed and substituted it with a minimum sentence provided for the offence, **fifteen (15) years imprisonment**.
2. On **23rd April, 2019** he filed a document mitigating on sentence on the grounds that his health has deteriorated after he got affected by diabetes, high blood pressure and stomach ulcers; he is 89 years old; and the woman he married caused the Complainant to come up with the allegations and ran away with children after selling off his piece of land.
3. The mandate of this Court expired after delivery of the Judgment dated **7th June, 2018**. Having complied with the law, it is not seized of the jurisdiction to reach a contrary decision.
4. Consequently, the Application is misconceived. Accordingly, it is dismissed.
5. It is so ordered.

Dated, Signed and Delivered at Kitui this 19th day of June, 2019.

L. N. MUTENDE

JUDGE