

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT GARISSA

CRIMINAL MISC. APPLICATION NO. 43 OF 2019

DANIEL KIMANZI MUVEA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant was charged with offence of attempted defilement contrary to section 9(1) (2) of the Sexual Offences Act No. 2006. Particulars being that on 20/6/2013 at Mumo District, Kitui County penetrated the vagina of **MM** aged 10 years old with his penis.
2. In alternative he was charged with indecent act with a child on the same particulars that he touched the vagina of the same child with his penis.
3. He was convicted on alternative count of indecent act and sentenced to serve 10 years imprisonment.
4. He appealed vide HCCRA No. 22 of 2015 – Garissa High Court but the same was dismissed. He did not appeal any further.
5. He has now moved court to direct that his sentence to be effective from date of arrest 24/6/2013 as he was never bonded during trial period for a period of 3 years or so.
6. He invokes the provisions of section 333 of the Criminal Procedure Code (Cap. 75 Laws of Kenya).
7. The State does not oppose the application thus the court orders that:

i. The sentence by trial court in Kyuso Criminal Case No. 114 of 2013 shall run from 21/6/2013 the date of arrest for a period of 10 years subject to any remission he may be granted by the prison's authority.

DATED, DELIVERED AND SIGNED AT GARISSA THIS 28TH DAY OF OCTOBER, 2019.

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C. KARIUKI

JUDGE