

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

MISC. APPLICATION CAUSE NO.38 OF 2017

ISAIAH KIPLAGAT.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant, Isaiah Kiplagat was initially charged in the Bungoma Magistrate's Court Criminal Case number 2740 of 2015 with the offence of defilement contrary to Section 8(1) as read with 8(4) of the Sexual Offences Act and was sentenced to 15 years upon pleading guilty.
2. He then appeal to this very Court, his grounds were that he admitted the charge due to pressure. The trial Court did not warn him of consequences of pleading guilty. He was not conversant with the Court language and his mitigation had not been considered.
3. This Court heard the appeal and dismissed the same on the 27th of July, 2017 having found the appeal devoid of any merit.
4. Before me is an interesting application "An application requesting for re-trial as the Law enjoins" the applicant is seeking another chance to be heard for the reason that he was not accorded fair and transparent hearing by the trial Court, as the said Court had relied on the evidence of one Party in arriving at its decision, that he was not given a State advocate and his fundamental rights were violated.
5. What is clear is that the applicant has shifted his goal posts since he filled his appeal and as an afterthought has crafted new grounds.
6. Nevertheless, the applicant is reminded that this Court cannot sit on its own appeal no matter how merited the new grounds may be. If he is aggrieved, as he appears to be with the judgement of this Court as an appeal Court, he is at liberty to take the next step by moving the Court of Appeal.
7. Application is therefore dismissed.

DATED and DELIVERED at BUNGOMA this 22nd day of February, 2018

ALI-ARONI

JUDGE