



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**CRIMINAL REVISION NO. 306 OF 2018**

**ALFRED KATHURIMA .....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

The applicant herein sought that the court revises his sentence in Nkubu SRM CR. C. No. 653 of 2010. He based his application on the grounds on the face of application and affidavit sworn on 31<sup>st</sup> May 2018 and filed on 11.6.2018.

S.202 as read with S.205 of the penal code provides/creates an offence of manslaughter and its penalty respectively as being liable to life imprisonment. The accused person was on 17<sup>th</sup> 2013 sentenced to serve 20 years imprisonment for murdering 2 ½ months old baby.

From the evidence adduced by the witnesses in Nkubu SRMC CR.C.No 653 of 2010 the applicant was the father of the deceased child having sired him out of wedlock. The mother of the child together with PW3, PW4, PW5 were doing casual work at the shamba belonging to applicant's mother.

The mother of the deceased child placed her under as she worked. That when the child started crying she told Dennis to go and pick the child for her but the applicant restrained him and threatened to cut him if he did. The applicant picked 2 ½ month old baby by the leg and cut her on the head. Applicant begun to chase mother too after cutting the child and throwing the body on the ground.

This court has considered grounds upon which the application has been made and filed that none satisfies the conditions that warrant revision of an order of the court.

Apart from the fact that this court is not satisfied with the reasons given, section 364(5) of the criminal procedure code provides

**“When an appeal lies from a finding sentence or order, and no appeal is brought, no proceedings by way of revision shall be entertained at the insistence of the party who could have appealed.”**

This provision bars applicant from applying for revision of his sentence when he was convicted and sentenced he was an adult and not a minor as he wishes the court to think. The applicant's sentence was very lenient considering the barbaric and sadist manner that he cut a helpless 2 ½ months old baby. If it were not for the procedure that revision should not be prejudicial he would have deserved to be committed to capital punishment.

The application is dismissed.

**HON. A.ONG'INJO**

**JUDGE**

**RULING DELIVERED, SIGNED AND DATED THIS 18<sup>TH</sup> DAY OF OCTOBER 2018**

IN THE PRESENCE OF:

C/A:

APPLICANT:

RESPONDENT:

**HON. A.MABEYA**

**JUDGE**