



**Moraa alias Venny Randa Moraa alias Venny Randa Moraa Gabriel alias  
Venny Randa Moraa Obare v Republic (Criminal Miscellaneous Application  
E017 of 2024) [2025] KEHC 234 (KLR) (23 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 234 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL MISCELLANEOUS APPLICATION E017 OF 2024**

**JM NANG'EA, J  
JANUARY 23, 2025**

**BETWEEN**

**VENNY MORAA ALIAS VENNY RANDA MORAA ALIAS VENNY RANDA  
MORAA GABRIEL ALIAS VENNY RANDA MORAA OBARE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. By Notice of Motion dated 1<sup>st</sup> February 2024, the Applicant inter alia prays for review and setting aside of sentence meted out against her in the Molo Senior Principal Magistrate's Court's Criminal Case No 1309 of 2013, and imposition of an appropriate sentence in substitution of the lower court's decision.
2. The Applicant was charged with and convicted of the offence of trafficking in Narcotic Drugs and sentenced to life imprisonment. She laments that the sentence is manifestly excessive. Invoking the popular Supreme Court's decision in the Muruatetu Case she says introduced change in sentencing laws, the Applicant craves a re-look at her sentence. She further makes reference to this court's Miscellaneous Criminal Application No 26 of 2019 in which her co-accused in the case (Andrew Kerosi Nyachweya) had his life sentence reduced to 15 years imprisonment.
3. Learned Counsel for the Applicant submits that the Applicant deserves review of the life imprisonment sentence in the peculiar circumstances obtaining herein where her co-accused had benefited by reduction of his life sentence to 15 years imprisonment. I have been referred to various superior court's decisions including the Muruatetu decisions in which the Supreme Court has clarified that it is only in murder cases that the mandatory death sentence has been declared unconstitutional. According to the Applicant's Counsel, the obtaining jurisprudence is that even laws prescribing minimum sentences like life imprisonment in cases involving Narcotic Drugs have been found to be



unconstitutional (see *Katiku v Republic* (Criminal Appeal No E007 of 2022 [2024] KEHC 3980 (KLR) (24 April 2024) (Judgment) cited by Counsel among other judicial determinations).

4. The court is therefore urged to allow the application.
5. The Prosecution Counsel (Ms Sang) opposes the application. She points out that the Applicant had preferred an appeal against the lower court's decision vide Appeal File No 250 of 2014 which was dismissed.
6. Counsel therefore submits that this court has no jurisdiction to revisit the sentence decided by a court of concurrent jurisdiction (see the case of *Daniel Otieno Oracha v Republic* [2019] eKLR cited in the Prosecutor's Submissions).
7. Ms Sang further brings to the court's attention that the Supreme Court in a recent case of *Republic v Joshua Gichuki Mwangi & others* Petition No E018 of 2023 has clarified that the jurisprudence flowing from the *Muruatetu* decision only applies to murder cases.
8. The court is therefore urged to dismiss the application.
9. I have considered the Applicants and Prosecution's Submissions against the application before me. The Prosecutor makes reference to a Criminal Appeal No 250 of 2014 said to have also been filed by the Applicant, presumably challenging the sentence, and which was dismissed. The Applicant has not addressed that appeal. She has not also addressed the most recent decision of the Supreme Court on this subject in the case of *Joshua Gichuki Mwangi supra* relied upon by the Prosecution Counsel. The Supreme Court in that case emphatically amplified the legal position that minimum sentences provided for by some laws which would include the *Narcotic Drugs and Psychotropic Substances Control Act* are constitutional unless and until otherwise decided by the Supreme Court. This is the newest position of the law and this court is bound by the principle of *stare decisis* to apply.
10. The Applicant is indeed unlucky because she brought her application after the law changed as stated. She will have to be patient and await any further directions that may be given by the Supreme Court.
11. For the stated reasons, this application is dismissed.

**J. M. NANG'EA, JUDGE.**

**RULING DELIVERED THIS 23<sup>RD</sup> DAY OF JANUARY, 2025 IN THE PRESENCE OF:**

The Prosecution Counsel, Ms Sang

Applicant's Counsel, Ms Nyameino

Applicants, Present online

The Court Assistant, Jeniffer

**J. M. NANG'EA, JUDGE.**

