



REPUBLIC OF KENYA



**Mwangi v Republic (Criminal Petition E001 of 2024)
[2025] KEHC 2213 (KLR) (21 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 2213 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL PETITION E001 OF 2024
LN MUTENDE, J
JANUARY 21, 2025**

BETWEEN

JOHN NDERITU MWANGI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. John Nderitu Mwangi, the Applicant, was arraigned having committed the offence of Defilement. After full trial he was convicted and sentenced for the offence of Defilement whereby he was to serve thirty (30) years imprisonment.
2. Aggrieved, the Applicant proffered an appeal to the High Court presided over by C. Kariuki J who affirmed the conviction, but, interfered with the sentence which he reduced to fifteen (15) years imprisonment.
3. Through an un-dated application filed herein on 16th February, 2024, the Applicant petitioned this court to intervene pursuant to Article 27(1) of *the Constitution* and to compute the sentence pursuant to Section 333(2) of the *Criminal Procedure Code*.
4. It is trite that every person should be protected and benefit from the law (see Article 27(1) of *the Constitution*). Article 50(2) (q) of *the Constitution* in granting every accused person the right to fair trial also provides for the right either to appeal or seek review upon conviction.
5. It is a principle of the law that a court that renders a decision becomes functus officio. It cannot re-open the question that has been determined conclusively. This court, presided over by Kariuki J determined the question of sentence which it found excessive and harsh hence reduced it. The court having decided on sentence it cannot unsettle the issue that was determined.



6. Therefore, this court is not seized of jurisdiction to interrogate the issue placed before it. In the result, the application lacks merit. Accordingly, it is dismissed.
7. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 21ST DAY OF JANUARY, 2025.

L.N. MUTENDE

JUDGE

