



REPUBLIC OF KENYA



**KENYA LAW**  
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**Okoth v Republic (Criminal Miscellaneous Application  
E042 of 2023) [2025] KEHC 292 (KLR) (22 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 292 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL MISCELLANEOUS APPLICATION E042 OF 2023**

**HI ONG'UDI, J  
JANUARY 22, 2025**

**BETWEEN**

**PRISCAL OKOTH ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Pascal Okoth the applicant herein was charged and convicted of the offence of defilement of an 11 year old girl. He was thereafter sentenced to serve twenty (20) years imprisonment on 24<sup>th</sup> March, 2023 with an order that the sentence runs from the date he took plea.
2. He filed the present application seeking revision of the sentence on the grounds that:
  - i. He has been in custody for almost five (5) years
  - ii. He is a reformed person and ready for re-integration into society.
3. The Applicant filed written submissions reiterating the above points. He also relied on the cases of *Wachira & 12 others v Republic & 2 others* [2022] KEHC 12795 (KLR); *Douglas Muthaura Ntobiri v Republic* [2014] eKLR & *Thomas Mwambu Wenyi v Republic* [2017] eKLR to support his argument that he had reformed, and that the purpose of the sentence had been achieved.
4. The application was opposed by the respondent M/s Okok principal prosecution counsel who responded orally and submitted that the applicant was given a lenient sentence which was not even the minimum sentence. That the High Court Petition relied on by the applicant had been overtaken by the Supreme court decision in the Joshua Gichuki Mwangi case.
5. I have carefully considered the application, submissions by both parties and the law. The applicant is not challenging his conviction. It is only the sentence he is not happy with.



6. He was charged with defilement contrary to section 8(1) as read with section 8(2) of the *Sexual Offences Act*.
7. The evidence on record shows that the victim's age indicated in the charge sheet was an estimation. On 6<sup>th</sup> August, 2021 the trial court ordered for an age assessment which was done and a report dated 14<sup>th</sup> October, 2021 was filed. The report showed that the victim was aged 13 years. The relevant penalty section should have been section 8(3) of the *Sexual Offences Act* which provides:
  - (3) A person who commits an offence of defilement with a child between the age of twelve and fifteen years is liable upon conviction to imprisonment for a term of not less than twenty years.
8. The applicant was therefore given the minimum sentence for the offence he was convicted of. Is the said sentence lawful? Yes, it is because the law has not been amended. I am further guided by the Supreme Court decision in Petition No. E018 of 2023 *Republic v Joshua Gichuki Mwangi* where the court held mandatory minimum sentences to be constitutional and have to be complied with.
9. The upshot is that the application lacks merit and is hereby dismissed. The sentence by the trial court stands.
10. Orders accordingly.

**DELIVERED, DATED AND SIGNED THIS 22<sup>ND</sup> DAY OF JANUARY, 2025 IN OPEN COURT AT NAKURU.**

**H. I. ONG'UDI**

**JUDGE**

