



**Matimo v Republic (Criminal Miscellaneous Application  
E048 of 2022) [2025] KEHC 3181 (KLR) (19 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 3181 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL MISCELLANEOUS APPLICATION E048 OF 2022  
HI ONG'UDI, J  
FEBRUARY 19, 2025**

**BETWEEN**

**PETER NDUNGU MATIMO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Peter Ndungu Matimo the applicant was charged and convicted of the offence of defilement contrary to section 8(1) (2) (sic) of the *Sexual Offences Act* No. 3 of 2006. He was thereafter sentenced to life imprisonment.
2. The applicant filed Nakuru High Court Criminal Appeal No. 46 of 2012. The same was heard and judgment delivered on 5<sup>th</sup> December, 2019 by Kiarie Waweru Kiarie J dismissing the appeal and upholding the conviction and the sentence.
3. The applicant has filed this undated application seeking a review of the sentence.
4. The application was opposed by the respondent's counsel M/s E. Okok who cited the Supreme Court case of Joshua Gichuki. In response the applicant argued that he had withdrawn his appeal at the Court of Appeal on wrong advice, and wondered what to do next.
5. The appeal by the applicant was heard by a Judge of the High Court which is a court of equal status to this one. What the applicant is doing through this application is challenging Justice Kiarie's Judgment. That can only be done by a senior court to this one which is the Court of Appeal. The upshot is that this court is functus officio and the application is therefore struck out and file closed.

Orders accordingly

**DELIVERED, DATED AND SIGNED THIS 19<sup>TH</sup> DAY OF FEBRUARY, 2025 IN OPEN COURT  
AT NAKURU.**



**H. I. ONG'UDI**  
**JUDGE**

