



**Odhiambo & another v Republic (Miscellaneous Criminal Case
E115 of 2024) [2025] KEHC 2024 (KLR) (19 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2024 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CRIMINAL CASE E115 OF 2024
HI ONG'UDI, J
FEBRUARY 19, 2025**

BETWEEN

FREDRICK ODHIAMBO ODHIAMBO 1ST APPLICANT

JUMANNE LOLUSU MOLLEL 2ND APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Fredrick Odhiambo Odhiambo (1st applicant) and Jumanne Lolusu Mollel (2nd applicant) were convicted of the offence of robbery with violence in Narok Senior Principal Magistrate's Court Criminal Case No. 982 of 2013 and sentenced to death on 17th January, 2014.
2. They filed Nakuru High Court Criminal Appeals Nos. 35 of 2014 and 36 of 2014 respectively which were consolidated with HCRA No. 35 of 2014 as the lead file. A Judgment was delivered by Ongeru and Kiarie JJ on 21st July, 2015 in which the appeal was dismissed in its entirety.
3. The applicants moved to the Court of Appeal Nakuru vide Criminal Appeal No. 91 of 2015 which was heard and a Judgment delivered on 2nd June, 2023 dismissing the Appeal for lack of merit. The Court of Appeal upheld the conviction and the death sentence.
4. The applicants then filed Misc. Criminal Applications Nos 168 and 171 of 2023 seeking review of sentence. The applications were consolidated and heard by Gichohi J who in her ruling delivered on 11th June, 2024 reviewed the death sentence and sentenced each of them to 35 years with effect from 3rd August, 2013.
5. In their present application they are seeking for a further review.



6. The application was opposed by the respondent through its counsel M/s Okok, who termed it an abuse of the court process.
7. It is not disputed that Gichohi J (Nakuru High Court No. 4) handled an application on review of sentence in Misc. Criminal Application No. E168 of 2023 as consolidated with No. E171 of 2023 and a decision was made. Nakuru High Court No. 4 has similar jurisdiction with this court and I cannot therefore review her decision on the same issue. This court is therefore functus officio and the application by both applicants is struck out. File is hereby closed.

Orders accordingly

**DELIVERED, VIRTUALLY, DATED AND SIGNED THIS 19TH DAY OF FEBRUARY, 2025 IN
OPEN COURT AT NAKURU.**

H. I. ONG'UDI

JUDGE

