



REPUBLIC OF KENYA



**KENYA LAW**  
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**Okari v Republic (Criminal Miscellaneous Application E132 of 2023)  
[2025] KEHC 2075 (KLR) (13 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2075 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL MISCELLANEOUS APPLICATION E132 OF 2023  
HI ONG'UDI, J  
FEBRUARY 13, 2025**

**BETWEEN**

**PETER MOMANYI OKARI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant – Peter Momanyi Okari, filed this undated notice of motion seeking a review of his sentence of 22 years imprisonment vide Nakuru Chief Magistrate’s Court Criminal Case No 33 of 2016. He had been convicted of the offence of defilement contrary to section 8(1) as read with section 8(2) of the *Sexual Offences Act* No 3 of 2006 on 28<sup>th</sup> October, 2016.
2. In his supporting affidavit he averred that this court had jurisdiction to deal with this matter and in line with the decision in Phillip Muceke Maingi Machakos Petition No E017 of 2021.
3. M/s Okok Counsel for the respondent opposed the application saying the High court had handled a similar application in Nakuru Misc. Criminal Application No E083 of 2023 after the applicants Appeal No 166 of 2016 had been unsuccessful. In the said Misc. Criminal Application High Court No 4 found the application to be unmerited. She thus asked the court to dismiss the present application for being an abuse of the court process.
4. The record is clear on the sequence of events in this matter as follows: The Applicant was on 28<sup>th</sup> October, 2016 convicted of the offence of defilement contrary to section 8(1) as read with section 8(2) of the *Sexual Offences Act* No 3 of 2006 vide Nakuru Chief Magistrate’s Criminal Case No 33 of 2016. He was sentenced to serve twenty two (22) years imprisonment. Being dissatisfied, he filed Nakuru HCCRA No 166 of 2016 which was heard and dismissed by Mutende J on 19<sup>th</sup> May, 2019. Again, being dissatisfied he filed Court of Appeal Nakuru Criminal Appeal No 114 of 2014. He however withdrew the Appeal on 16<sup>th</sup> September, 2020. He again filed Nakuru Misc. Criminal



Application No E083 of 2023 seeking re-sentencing. The application was heard and dismissed by Gichohi J on 14<sup>th</sup> May, 2024.

5. The Applicant is now before this court seeking similar orders as those in Misc. Application No E083 of 2023. There is nothing new that has come up nor been brought to the court's attention which was not within the knowledge of the other superior courts to warrant a review of the sentence.
6. The only issue I have noted is that there was no application of section 333(2) of the [Criminal Procedure Code](#) by either the Magistrate's Court, High Court on Appeal or High Court at the Revision level. Save for that I find no merit in the application. The sentence of 22 year imprisonment remains in force with an order that it runs from 15<sup>th</sup> February, 2016 when the applicant was first arraigned in court.
7. The application is otherwise dismissed.
8. Orders accordingly.

**DELIVERED, VIRTUALLY, DATED AND SIGNED THIS 13<sup>TH</sup> DAY OF FEBRUARY, 2025 IN OPEN COURT AT NAKURU.**

**H. I. ONG'UDI**

**JUDGE**

