



REPUBLIC OF KENYA



KENYA LAW
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**Siloi v Republic (Criminal Miscellaneous Application E046 of 2024)
[2025] KEHC 1440 (KLR) (20 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1440 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL MISCELLANEOUS APPLICATION E046 OF 2024
LN MUTENDE, J
FEBRUARY 20, 2025**

BETWEEN

KATIMO KIPKOSGEI SILOI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Katimo Kipkosgei Siloi, the Applicant, was charged with Murder contrary to Section 203 as read with Section 204 of the *Penal Code*. Subsequently, he entered into a legal agreement with the State where he agreed to plead guilty to lesser charge of manslaughter. Following the conviction, he was sentenced to serve twelve (12) years imprisonment, the court having ensured that the plea bargain was reached fairly and the applicant who was informed of his rights having agreed to the process.
2. Following the decision of the court, dated 18/1/2018, the applicant has approached this court through an undated Chamber Summons filed herein on 1/4/2021, seeking review of sentence in the matter. He seeks time spent in custody during trial to be incorporated in computation of the sentence pursuant to Section 333(2) of the *Criminal Procedure Code* (CPC) and Section 137(1)(2) (a) of the CPC. That the court to order the applicant to serve a non -custodial sentence for the remainder of the sentence or to acquit him altogether.
3. Notably, this is a matter that was determined by the High Court which calls into play the principle of finality or *functus officio*. This court having finally exercised its authority in the case and determined the matter following mitigation rendered, it would have no jurisdiction to re-open the case with a view



of considering the relief sought. The doctrine of “functus officio” was clearly stated in [Telcom Kenya Ltd v John Ochanda](#) [2014] eKLR. The court delivered itself thus;

“Functus officio is an enduring principle of law that prevents the re-opening of a matter before a court that rendered a final decision.”

4. The upshot of the above is that a court of a similar jurisdiction having pronounced itself, I have no power to unsettle the order by granting orders sought. Accordingly, the application is dismissed.
5. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 20TH DAY OF FEBRUARY, 2025.

L.N. MUTENDE

JUDGE

