



**Emojong v Republic (Miscellaneous Criminal Application  
E001 of 2025) [2025] KEHC 2260 (KLR) (5 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2260 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
MISCELLANEOUS CRIMINAL APPLICATION E001 OF 2025**

**LN MUTENDE, J**

**MARCH 5, 2025**

**BETWEEN**

**PETER EMOJONG ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Peter Emojong, the applicant, and another were charged, convicted and sentenced for two (2) counts; Being in possession of Wildlife contrary to section 95 of the Wildlife Conservation Act, 2013; and, Dealing in Wildlife Trophy contrary to Section 84(1) as read with Section 92 of the Wildlife and Management Act. The sentence imposed was Ksh. 1,000,000/- and in default five (5) years imprisonment; and, Ksh. 20,000,000/- and, in default life imprisonment.
2. Aggrieved, he proffered an appeal to the High Court which was dismissed in its entirety. (See HCCRA No. 95 of 2017). Being dissatisfied further with the decision, he sought leave to appeal out of time, an application that was dismissed in 2024 by the Court of Appeal as the delay was inordinate.
3. Through an undated application, he seeks re-hearing and re-consideration of sentence pursuant to Section 216 and 329 of the *Criminal Procedure Code*. That the sentencing guidelines empower this court to interfere with life imprisonment after listening to mitigation.
4. In response, learned prosecution counsel, Mr. Obutu urged that the application lacked merit as this court cannot overturn the decision of the High Court.
5. I have considered rival averments. It is worth noting that this matter was considered and determined by the High Court (Wendoh J) a court of concurrent jurisdiction with this court which divests it of the authority to re-open the case. The High Court did issue a final order on sentence hence it's functus officio.



6. Additionally, in *Republic v Mwangi & Others* Petition No. E018 of 2023 [2024] KESC 34(KLR) the Supreme Court stated that the decision of Muruatetu didn't invalidate mandatory sentence, minimum sentence in the *Penal Code*, the *Sexual Offences Act* or in any other statutes.
7. From the foregoing the application by the Applicant is without merit. Accordingly, it is dismissed.
8. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 5TH DAY OF MARCH, 2025.**

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**L.N. MUTENDE**

**JUDGE**

