



**Masera v Republic (Miscellaneous Criminal Application  
E014 of 2022) [2025] KEHC 7016 (KLR) (22 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7016 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAROK  
MISCELLANEOUS CRIMINAL APPLICATION E014 OF 2022**

**CM KARIUKI, J**

**MAY 22, 2025**

**BETWEEN**

**JACKSON NGINO MASERA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. By application dated on 31/3/2022 the Applicant seeks sentence reviewed pursuant to charge and conviction in *Sexual Offences Act* whereby he was sentenced to life imprisonment.
2. The basic ground of the matter is that the Applicant was charged with offence of defilement contrary to Section 8(1) as read with Section 8(4) of *Sexual Offences Act* No. 3 of 2006. He pleaded guilty and he was convicted and sentenced to life imprisonment. He was late to file appeal thus sought time to be extended to file appeal out of time vide application dated 8/019 but same was rejected. He says he is now 62 years serving sentence that is harsh.
3. He has cited case which had held that life sentence can be tempered with and quantified numbers substitute it which unfortunately have been overruled by the Supreme Court in the case of R. Vs. Josiah Gichuki.
4. The Court (Supreme) has held that life sentence in Sexual Offences where a child defiled (victim) is under the age of 12 years is constitutional.
5. This court has no jurisdiction or discretion to tamper with award of life sentence by the trial court. The application also involves the provisions of Section 333(2) of *Criminal Procedure Code* Cap 75 Laws of Kenya which dictates court in sentencing to take to account period in which the accused was in remand before sentence. However, the same is not applicable in life sentence, as the period of life sentence is not quantifiable to give room for application of Section 333(2) of *Criminal Procedure Code*.



6. There is no quantified amount of years awarded to the accused to enable the trial court or for that matter the Appellate Court to credit accused/Appellant with period in custody during trial. Thus, the upshot is that the application lacks merit and is thus dismissed.

**DATED AND DELIVERED THIS 22<sup>ND</sup> MAY, 2025.**

**HON. JUSTICE CHARLES KARIUKI**

**JUDGE**

