



**Abdallah v Director of Public Prosecution (Criminal Revision
E307 of 2024) [2025] KEHC 8569 (KLR) (17 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8569 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL REVISION E307 OF 2024**

S MBUNGI, J

JUNE 17, 2025

BETWEEN

RAJAB SENELWA ABDALLAH APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTION RESPONDENT

RULING

1. The applicant herein, was charged, tried, convicted and sentenced to death for the offence of robbery with violence contrary to section 296(2) of the [Penal Code](#) in Hamisi Criminal Case No. 152 of 2013.
2. Dissatisfied with the conviction and sentence, the Applicant lodged an appeal to the High Court at Kakamega being Criminal Appeal No. 56 of 2016. The appeal was heard and determined, and the same was dismissed in its entirety.
3. The Applicant, still aggrieved, moved to the Court of Appeal vide Criminal Appeal No. 18 of 2018. The said appeal was similarly dismissed and the conviction and sentence were upheld on the 30th of August, 2024.
4. The Applicant has now approached this Court through an undated Notice of Motion seeking revision of the sentence imposed on him by the trial court, specifically the death sentence.
5. This Court observes that the issues raised in the present application had already been heard and determined both by the High Court and the Court of Appeal which both ruled on conviction and upheld the trial court sentence. The principle of finality of litigation bars the re-litigation of issues already adjudicated upon.
6. In *Mbaka v Republic* [2023] eKLR, the Court held that where a party seeks to reopen issues that had already been canvassed before and determined by the High Court and the Court of Appeal, such an application offends the doctrine of *res judicata* and is therefore incompetent.



7. Similarly, In *Wanjala v Republic* (E007 of 2023), the Court reiterated that once an appellate court has rendered itself on both conviction and sentence, the revisional jurisdiction of the High Court is no longer available, as the Court becomes functus officio.
8. In the present case, the Applicant's conviction and sentence were subjected to both appellate and judicial scrutiny by the High Court and the Court of Appeal, which upheld the findings of the trial court. The matter had thus attained finality.
9. Accordingly, this Court had no jurisdiction to entertain the present application since the issue of sentence was determined in the High Court by a Judge of competent jurisdiction and the Court of Appeal, too.
10. Consequently, the application is hereby dismissed. The issues raised therein have already been determined on appeal by both the High Court and the Court of Appeal. This Court is functus officio and the matter is res judicata.
11. Right of Appeal 14 days explained.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 17TH DAY OF JUNE, 2025

S.N MBUNGI

JUDGE

In the presence of :

Court Assistant – Elizabeth Angong'a

Applicant present online.

