



**Emongor v Republic (Petition E002 of 2024)
[2025] KEHC 10905 (KLR) (23 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10905 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
PETITION E002 OF 2024**

**REA OUGO, J
JULY 23, 2025**

BETWEEN

GEOFFREY EMONGOR PETITIONER

AND

REPUBLIC RESPONDENT

JUDGMENT

1. The petitioner in this matter was charged with the offence of defilement and sentenced to life imprisonment. The victim was 5 years old. His appeal before the High Court was dismissed by Justice Aroni, as she then was on 24th March 2016.
2. He is back in the High Court challenging the constitutionality of the indeterminate life sentence. The petition was opposed. The petitioner has cited decisions made before the Supreme Court’s decision in petition no 18 of 2023. In Republic v Mwangi; Initiative for Strategic Litigation in Africa (ISLA) & 3 others (Amicus Curiae) (Petition E018 of 2023) [2024] KESC 34 (KLR) (12 July 2024) (Judgment), the Supreme Court stated as follows;

“We must also reaffirm that, although sentencing is an exercise of judicial discretion, it is Parliament and not the Judiciary that sets the parameters of sentencing for each crime in statute. As such, striking down a sentence provided for in Statute, must be based not only on evidence and sound legal principles but on an in-depth consideration of public interest and the principles of public law that informed the making of that specific law. A judicial decision of that nature cannot be based on private opinions, sentiments, sympathy or benevolence. It ought not to be arbitrary, whimsical or capricious. However, where a sentence is set in Statute, the Legislature has already determined the course, unless it is declared unconstitutional, based on sound principles and clear guidelines, upon which the Legislature should then act. Suffice to say, where Parliament enacts legislation, the Judicial



arm should adjudicate disputes based on the provisions of the law. However, in the special circumstances of a declaration of unconstitutionality, the process is reversed”.

3. Section 8 of the *Sexual Offences Act* remains valid. The directions issued by the Supreme Court on 6th July 2021 in Francis Karioko Muruatetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae) [2021] eKLR reaffirmed that mandatory or minimum sentences specified in statutes have not been invalidated. The Apex Court further clarified that the exercise of discretion in sentencing is only applicable to murder cases where it is not explicitly provided in law.
4. Currently, the sentence the petitioner is serving is as stipulated by law, and this court cannot interfere with it. The petition lacks merit and is dismissed.

DATED, SIGNED AND DELIVERED AT BUNGOMA ON THIS 23RD OF JULY 2025.

R.E.OUGO

JUDGE

In the presence;

Geoffrey Emongor/Petitioner

Miss Matere - State Counsel/ ODDP

Wilkister - C/A

