



REPUBLIC OF KENYA



KENYA LAW
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**Wanjala v Republic (Criminal Revision E020 of 2025)
[2025] KEHC 11081 (KLR) (14 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11081 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRIMINAL REVISION E020 OF 2025**

MS SHARIFF, J

JULY 14, 2025

BETWEEN

JOHN JUMA WANJALA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

Background

1. The applicant herein John Juma Wanjala was charged, tried, convicted and sentenced to life imprisonment for the offence of defilement contrary to section 8(1) as read with section 8(2) of *Sexual Offences Act* No. 3 of 2006 in Bungoma CMCCR Case No. 259 of 2014 (O.S)
2. Being dissatisfied with the decision of the trial court, the applicant lodged an appeal in Bungoma HC. CRA No. 42 of 2017. The said appeal was heard and dismissed by Lady Justice RPV Wendoh on 9th April 2019.
3. The applicant preferred a further appeal to the Court of Appeal being Kisumu Court of Appeal CR A No. 205 of 2019. The said appeal was heard and dismissed on 21.3.2025 by a bench comprising of Justices of Appeal OKwengu, Omondi and Joel Ngugi.

Application

4. The applicant has not given up and has now moved this court for review of his sentence on grounds that life sentence is harsh and further that he had been framed as the victim has allegedly recanted her testimony vide an affidavit.
5. This application is supported by an affidavit of the applicant wherein he restates the grounds cited hereinabove. He further craves that this court ought to consider the provisions of Section 333(2) of the *Criminal Procedure code*.



6. This court has powers under Section 364 of the *Criminal Procedure code* and article 165(6) and (7) of the *Constitution* of Kenya 2010 to exercise revisionary jurisdiction. Section 364 of the *Criminal Procedure code* provides as follows:-

“..

- (1) In the case of a proceeding in a subordinate court the record of which has been called for or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may—
 - (a) in the case of a conviction, exercise any of the powers conferred on it as a court of appeal by sections 354, 357 and 358, and may enhance the sentence;
 - (b) in the case of any other order other than an order of acquittal, alter or reverse the order.
- (2) No order under this section shall be made to the prejudice of an accused person unless he has had an opportunity of being heard either personally or by an advocate in his own defence: Provided that this subsection shall not apply to an order made where a subordinate court has failed to pass a sentence which it was required to pass under the written law creating the offence concerned.
- (3) Where the sentence dealt with under this section has been passed by a subordinate court, the High Court shall not inflict a greater punishment for the offence which in the opinion of the High Court the accused has committed than might have been inflicted by the court which imposed the sentence.
- (4) Nothing in this section shall be deemed to authorize the High Court to convert a finding of acquittal into one of conviction.
- (5) When an appeal lies from a finding, sentence or order, and no appeal is brought, no proceeding by way of revision shall be entertained at the insistence of the party who could have appealed.

On the other hand article 165(6) and (7) state as hereunder

- (6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.
- (7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.

7. The issue that arises for determination is whether this application is merited.

8. It is trite law that this court is bound by the doctrine of *Stari decisis*. Article 163(7) of the *Constitution* of Kenya 2010 codifies this doctrine by providing as follows

“.....All courts, other than the Supreme Court, are bound by the decisions of the Supreme Court.”



9. The Supreme Court of Kenya had the occasion to consider the legality of mandatory minimum sentences as prescribed under the *Sexual Offences Act* in the case of *Republic vs Joshua Gichuki Mwangi*; Petition No. 18 of 2023 wherein the court held that such sentences are valid and lawful as long as the *Sexual Offences Act* remains in force.
10. This court is bound by the above cited Judgement of the Supreme court by virtue of provisions of article 163(7) of the *Constitution* of Kenya 2010.
11. The Applicant was as already stated herein above sentence to life imprisonment wherefore it is a misnomer for him to purport to ask this court to consider any pre-conviction term served pursuant to the provision of Section 333(2) of the *Criminal Procedure code*. A life sentence is not a termed sentence wherefore no arithmetic calculation are involved in determining the imprisonment determines at the demise of the applicant.
12. The issue raised by the applicant herein; that the victim has recanted her testimony is a novel one. I have not seen any affidavit to that effect as none has been annexed to this application; in any event no such averment was ever made before the two appellate courts when they entertained and determined the two appeals filed by the applicant herein. The conduct of the applicant is a kin to that of drowning man who clings to even a passing straw. It is not lost to this court that the applicant defiled a nine year old girl. His crime is heinous and two appellate courts have confirmed the decision of the trial court.

Conclusion

13. Premised upon the reasons disclosed hereinabove, I do find that this application is devoid of merit and I thereby dismiss it in its entirety.
14. This file is hereby marked as closed.

DELIVERED, SIGNED AND DATED AT BUNGOMA THIS 14TH DAY OF JULY 2025.

M.S. SHARIFF

JUDGE

