



**Mateba v Republic (Miscellaneous Criminal Application
E011 of 2023) [2024] KEHC 2614 (KLR) (11 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2614 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CRIMINAL APPLICATION E011 OF 2023**

SC CHIRCHIR, J

MARCH 11, 2024

BETWEEN

DENNIS OKELLO MATEBA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein was convicted of the offence of defilement by the Chief Magistrate's Court at Kakamega. He was dissatisfied and filed an appeal to the High Court on conviction and sentence. On 18.12.2025, the High Court dismissed his appeal on both grounds.
2. On 6.8.2020 he came back to this court by way of a petition seeking for a review of sentence on the basis of the supreme court decision on the case of *Francis k. Muruatetu and Ano v Republic* (2017) eKLR which declared minimum mandatory sentences of death penalty unconstitutional. Justice Musyoka considered the application and dismissed it.
3. Through the current Notice of motion, the Applicant is basically making the same prayers, only that this time he is anchoring his application for revision of sentence on the case of *Philip v DPP* (Machakos High Court Petition No. E17 of 2021).
4. The application must fail because this court has already expressed itself on the revision of sentence through the Ruling of Justice Musyoka. This court has become functus officio.
5. I have no powers to revise the orders of judge with concurrent jurisdiction. If the Applicant felt dissatisfied with the orders of justice Musyoka, his recourse is not to come back to this court.
6. The application is incompetent. It is hereby struck off.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 11TH DAY OF MARCH, 2024



S. CHIRCHIR

JUDGE

In the presence of:-

Godwin – Court Assistant

The Applicant

