



**WMM v Republic (Miscellaneous Criminal Application
E178 of 2023) [2024] KEHC 2627 (KLR) (7 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2627 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CRIMINAL APPLICATION E178 OF 2023**

A. ONG'INJO, J

MARCH 7, 2024

BETWEEN

WMM APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant WMM was convicted in 3 counts for the offence of defilement contrary to Section 20(1) of the *Sexual Offences Act* No. 3 of 2006 and he was found guilty and convicted. He was sentenced to serve life imprisonment in all the 3 counts to run concurrently. This was in Mombasa Chief Magistrates Court Criminal Case No. 3546 of 2010.
2. The applicant preferred an appeal in Mombasa High Court Criminal Appeal No. 99 of 2011 and the appeal was dismissed and conviction and sentence upheld.
3. The applicant now seeks that his sentence be revised based on averments in the supporting affidavit and in consideration of his mitigation and the period he was in custody pre and post conviction.
4. The application is canvassed by written submissions filed by the appellant.
5. This court has considered the application, supporting affidavit and the annexures as well as submissions but in consideration of the records of the trial court that the applicant filed herein, the sentiments of the trial magistrate on 4th April 2011 that the applicant committed a beastly act against his biological children repeatedly over a long period of time after sending their mother away makes this court find that the gravity of the offence cannot allow this court to consider the applicant for sentence revision.
6. The applicant defiled the 3 daughters in turns from a very tender age and even making one pregnant 5 times and procured abortions until the person who was being called to undertake the process advised



one of the children to report to the police. The applicant's actions called for a deterrent sentence and he should remain in custody to protect vulnerable members of society.

7. The life sentence in the 3 counts is set aside and substituted with determinate period of 40 years jail term, each to run concurrently. The sentence to run from 17th November 2010 when he was arraigned in court.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,
THIS 7TH DAY OF MARCH 2024**

HON. LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of: -

Etropia- Court Assistant

Mr. Ngiri for Respondent

Applicant present in person

HON. LADY JUSTICE A. ONG'INJO

JUDGE

