



**Mutungi v Republic (Miscellaneous Criminal Case E009 of 2023)
[2024] KEHC 5306 (KLR) (15 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5306 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
MISCELLANEOUS CRIMINAL CASE E009 OF 2023
SM MOHOCHI, J
MAY 15, 2024**

BETWEEN

MORRIS MBUGUA MUTUNGI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged, convicted and sentence to life imprisonment by C.M.' Court Nakuru for the offence of Robbery with Violence contrary to Section 296 (2) of the Penal Code in Criminal Case Number 3101 of 2012.
2. That the sentence of life imprisonment was reduced to 30 years *vide* High Court Criminal Appeal number 11 of 2020.
3. That he never appealed to the Court of Appeal at Nakuru hence seeks for a sentence review of the sentence awarded by the High Court that he finds it so harsh and excessive.
4. That this Court has jurisdiction to determine this application under the provisions of Article 165 (3) of the new constitution of Kenya 2010.
5. Having considered the application, the applicants written submissions, the Applicant's Appeal and Judgment in HCRA of 2020, the Trial Court proceedings, Judgment and Sentence CMCR. No. 3101 of 2012, I am persuaded that the Applicant entire application has no basis and the same fails.



6. However, this Court has an obligation to be the protector of human rights and in the discharge of the revision jurisdiction, recalling the recent Court of Appeal decision Manyeso v R HCRA No.12 of 2021: -

“That an indeterminate life sentence was inhumane treatment and in contravention to article 28 of the constitution that this form of punishment is degrading and inhuman.”

7. Thus the Court of Appeal substituted life imprisonment with a forty (40) year imprisonment sentence.

8. In this particular instance this Court on the holdings in the (Manyeso decision) disturb the life sentence imposed and substitute the same with a thirty (32) years imprisonment sentence.

9. The sentence shall run from the 10th September 2012.

It is so ordered.

SIGNED, DATED AND DELIVERED AT NAKURU ON THIS 15TH DAY OF MAY 2024

.....

MOHOCHI S.M

JUDGE

In the Presence of;

Ms. Schola, C.A

Applicant

Ms. Jackie Kisoo, Prosecution Counsel for the Republic

