



**Njoroge v Republic (Criminal Revision E53 of 2023)
[2024] KEHC 5477 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5477 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CRIMINAL REVISION E53 OF 2023
FN MUCHEMI, J
MAY 16, 2024
(FORMERLY KIAMBU HCA NO 73 OF 2021)**

BETWEEN

JOSEPH KAMAU NJOROGE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The appellant's appeal against the judgement of Gatundu Senior Resident Magistrate was heard through submissions. Both parties filed their submissions. The appellant was convicted of the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act* and sentenced to serve twenty (20) years imprisonment. He rolled out several grounds of appeal.
2. As this court was preparing the judgment in this appeal and upon perusal of the original file, I came across a judgment in Kiambu HCA Gatundu Criminal Case No 7 of 2017. The appeal was heard and judgment prepared by E. N. Maina, J on 28th October 2020 and delivered on her behalf by Kasango J on 9th October 2020. The result was that the appeal was dismissed for lack of merit.
3. The appellant filed this appeal on 16th July 2021 a year after the first appeal was dismissed. The appeal was filed in Kiambu High Court as HCCA No 73 of 2021 against the same judgment. C.M Makari Senior Resident Magistrate in Gatundu Criminal Case (SO) No 7 of 2017. After Thika High Court was gazetted in August 2023, the file was transferred from Kiambu to this court for disposal.
4. It is imperative to note that it was within the knowledge of the appellant that he had filed another appeal against the same judgment in Gatundu Criminal Case No 7 of 2017 which had been heard and determined by a judge of the High Court. All along, the appellant never disclosed to the court the fact that he was on an unlawful mission of testing his luck in another court of concurrent jurisdiction.



5. In my view, the conduct of the appellant is unacceptable that has caused a waste of precious judicial time. I have noticed that this habit of filing appeals and applications after dismissal of the initial one is a common practice among prisoners and must be discouraged by engaging the prison authorities to intervene. Judicial officers and judges must be proactive in checking the relevant systems for such abuse of the court process.
6. I find this appeal misconceived, vexatious and improperly before the court and it is hereby struck out.
7. It is hereby so ordered.

RULING DELIVERED AT THIKA, DATED AND SIGNED THIS 16TH DAY OF MAY 2024.

F. MUCHEMI

JUDGE

