



**Ndegwa v Republic (Miscellaneous Criminal Case E103 of 2022)  
[2024] KEHC 5302 (KLR) (15 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5302 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
MISCELLANEOUS CRIMINAL CASE E103 OF 2022  
SM MOHOCHI, J  
MAY 15, 2024**

**BETWEEN**

**JOHN MUIRURI NDEGWA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was arrested, charged, convicted and serve life imprisonment sentence contrary to Section 8 of *Sexual Offence Act* No.3 of 2006 *vide* Cr. Case No.134 of 2012 at Nakuru Law Court on the 3<sup>rd</sup> day of October, 2018.
2. That, he appealed to the High Court Nairobi *vide* HCRA. No. 90 of 2018 at Nakuru which was upheld. That, subsequently the Applicant appealed to the Court of Appeal hence no communication received regarding the appeal number or records.
3. That he begs this Court to excise its powers bestowed to it by the *constitution* craving for the following reliefs in his notice of motion;
  1. That, this Honourable Court be please to grant a re-hearing of sentence in Criminal Case Number 134 of 2012 at Nakuru Law Court.
  2. That, this Honourable Court be pleased to receive mitigation from the Applicant herein for consideration of appropriate sentence.
  3. That, this Honourable Court be please to issue any other order it may deem fit for the interest of justice.
  4. That, the application is supported by Annexed Affidavit of John Muiruri Ndegwa amongst other grounds to be adduced during the hearing of the application.



4. That this Court will be discharging its constitutional obligation pursuant to Article 20 (3) (a) (b) of the constitution.
5. That no prejudice will be occasioned to the Respondent if this application is allowed.
6. While the Court finds no basis on the entire motion the indeterminate imprisonment for life remains as the only issue this Court can disturb.
7. Having considered, the Applicant's application contends, written submissions, copies of certificates already earned in prison, Lower Court trial proceedings, judgement and sentence, Nakuru CMCR.134 of 2012, the High Court Appeal and Judgment HCRA 91 of 2018 and the submissions by the state dated 24<sup>th</sup> April, 2024 by Jackline Kisoo a prosecutor.
8. I shall only disturb this sentence on the basis of the Manyeso Vs R case:  

“that an indeterminate life imprisonment is unconstitutional to the extent it contravenes articles 27 and 28 of the constitution the same is discriminatory and the sentence amounts to cruel inhuman treatment or punishment contrary to Article 28.”
9. This Court shall substitute the life-sentence imposed with an imprisonment for thirty (30) years to run from the 14<sup>th</sup> June 2012.
10. It so ordered.

**SIGNED, DATED AND DELIVERED AT NAKURU ON THIS 15<sup>TH</sup> 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

