



**Ongek v Republic (Criminal Miscellaneous Application
126 of 2023) [2024] KEHC 7314 (KLR) (13 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7314 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL MISCELLANEOUS APPLICATION 126 OF 2023**

**DO OGEMBO, J
JUNE 13, 2024**

BETWEEN

SAMUEL ONGEK ONGEK APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant, Samuel Ongek Ongek, has filed this Notice of Motion application dated 13/4/2023 on 4/8/2023. In the application, the applicant has submitted that he was sentenced to life imprisonment for the offence of Defilement contrary to Section 8 (1) as read with Section 8 (2) of the *Sexual Offences Act*, No. 3 of 2006. That his sentence was later substituted to 30 years imprisonment on revision by the High Court. He has gone ahead to raise mitigation factors that he is 75 years old and in poor health. He seeks further revision.
2. The prosecution opposes this application on grounds that the High Court has already reviewed the sentence herein and that the application lacks in any merit.
3. This application is for revision of sentence of the applicant. The proceedings relating to the case of the applicant confirm that the trial court on 5/12/2018, sentenced the applicant to serve life imprisonment. The applicant moved to appeal and filed Criminal Appeal No. 69 of 2018. By a judgment delivered on 10/2/2020, the appeal of the Applicant was dismissed.
4. The record clearly shows the court (High Court) accorded the applicant to express his mitigation. The court proceeded to obtain a social inquiry report from the County Probation Officer which the court took into consideration. It is then that the High Court reviewed the sentence of the Applicant.
5. The applicant was resented to serve 30 years imprisonment to run from the date of sentence of the trial court.



6. In this application, the applicant is raising exactly the same issues that the High Court already took into consideration and ruled on. This court has no jurisdiction to revise any substantive orders or determinations of a judge of concurrent jurisdiction.
7. This application of the applicant dated 13/4/2023 is therefore devoid of any merit and to say the least, is an abuse of the process of this court. The same must suffer its natural consequence.

I dismiss this application wholly. It is so ordered.

Dated, Signed and Delivered this 13th Day of June, 2024.

D. O. OGEMBO

JUDGE

13/6/2024

Court

PARA 8.

Ruling delivered in Open Court in presence of Applicant (Kisumu) and Ms. Kerubo for the State.

D. O. OGEMBO

JUDGE

13/6/2024

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