



**Mbaja v Republic (Criminal Revision 58 of 2024)
[2024] KEHC 8408 (KLR) (15 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 8408 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 58 OF 2024**

DR KAVEDZA, J

JULY 15, 2024

BETWEEN

ROMARIO MBAJA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and after a full trial, was convicted for the offence of defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act*, No. 3 of 2006. He was sentenced to serve 20 years imprisonment. Being aggrieved, he filed an appeal challenging his conviction and sentence. On 7th February 2023, Hon. Ogembo J, dismissed the appeal in its entirety vide Nairobi Criminal Appeal no. 9 of 2020.
2. The applicant has now filed the present application seeking revision of sentence. The grounds raised are that the term spent in custody is sufficient sentence. He urged the court to grant a non-custodial sentence.
3. I have considered the application herein, the written submissions and the applicable law. The question which needs to be answered is whether the application herein ought to be allowed.
4. As I have indicated above, the applicant’s appeal to this court against his conviction and sentence by the trial court was heard and determined. It is trite law that the jurisdiction of courts in Kenya is always conferred by *the Constitution* or other written laws and that a Court of law can only exercise jurisdiction as conferred by *the constitution* or other written law. A court of law cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. The jurisdiction of the High Court includes; unlimited original jurisdiction in criminal and civil matters; jurisdiction to enforce the bill of rights; appellate jurisdiction; interpretative jurisdiction; any other jurisdiction, original or appellate, conferred on it by legislation; and supervisory jurisdiction.



5. From the record, the applicant filed an appeal against his conviction and sentence which was heard and determined by this court on 7th February 2023. In the circumstances, the right forum for the applicant is the Court of Appeal. As such, the application is dismissed. The applicant is directed not to file any other application without leave of court.

RULING DATED AND DELIVERED VIRTUALLY THIS 15TH DAY OF JULY 2024

D. KAVEDZA

JUDGE

