



**Kamau v Republic (Petition E010 of 2021)
[2024] KEHC 12800 (KLR) (23 October 2024) (Judgment)**

Neutral citation: [2024] KEHC 12800 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
PETITION E010 OF 2021**

M MUYA, J

OCTOBER 23, 2024

BETWEEN

JAMES KARUGA KAMAU PETITIONER

AND

REPUBLIC RESPONDENT

JUDGMENT

1. The above named petitioner was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal code in Nyeri High Court Criminal Case No. 29 of 2008 and after a full hearing and determination he was convicted and sentenced to suffer death.
2. The convict lodged an appeal at the Nyeri Court of Appeal in Nyeri Criminal Appeal No. 229 of 2008 which upon hearing was dismissed but on 3/8/2008 the death sentence was commuted by the president to life sentence.
3. The petitioner now before this court seeks the relief of re-sentencing in line with the provisions of Article 50(2)(p) of *the Constitution*; Section 332(3) of the Criminal Procedure Code, and the Supreme Court decision in Petition No. 15 of 2015 Francis Muruatetu & another Vs Republic.
4. The respondent does not oppose this application and places reliance in the Supreme Court Petition No. 15 and 16 Muruatetu Case where the court held that mandatory death sentence was unconstitutional.
5. Before going into the details of this petition, it is noted that the same petitioner James Karuga Kamau filed Petition No. 21 of 2018 seeking the same relief of re-sentencing before Justice Ngaah who on 28th day of May, 2020 rendered his judgment dismissing the application. The petitioner has brought himself to the same High Court which had heard and determined his matter. I find no good reason to interfere with the decision of my brother Judge as I have no jurisdiction to do so.



6. His present application is hereby dismissed.

JUDGEMENT READ AND DELIVERED IN OPEN COURT THIS 23RD DAY OF OCTOBER, 2024.

In the presence of:-

Miss Kairu for the prosecution

Applicant in person.

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M. MUYA

JUDGE

