



**Laibon v Director of Public Prosecutions (DPP) (Petition
E019 of 2022) [2023] KEHC 928 (KLR) (9 February 2023) (Judgment)**

Neutral citation: [2023] KEHC 928 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
PETITION E019 OF 2022
TW CHERERE, J
FEBRUARY 9, 2023**

BETWEEN

CHARLES KABWI LAIBON PETITIONER

AND

DIRECTOR OF PUBLIC PROSECUTIONS (DPP) RESPONDENT

JUDGMENT

- 1) Petitioner was convicted of robbery with violence in IsioloCMCR. Case.3793 of 2010 and was sentenced to death. His appeals to the High Court vide HCCr.Appeal No 47 OF 2014 was dismissed but his sentence was commuted to life imprisonment.
- 2) Applicant seeks resentence. By way of directions dated July 6, 2021, the Supreme Court in *Francis Karioko Muruatetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae)* [2021] eKLR directed inter alia as follows:
 - 1) The decision of Muruatetu and these guidelines apply only in respect to sentences of murder under Sections 203 and 204 of the *Penal Code*
 - 2) In respect of other capital offences such as treason under section 40 (3), robbery with violence under section 296 (2), and attempted robbery with violence under section 297 (2) of the *Penal Code*, that a challenge on the constitutional validity of the mandatory death penalty in such cases should be properly filed, presented, and fully argued before the High Court and escalated to the Court of Appeal, if necessary, at which a similar outcome as that in this case may be reached.
- 3) I have considered The Sentencing Policy Guidelines, 2016 and its application which is intended to promote transparency, consistency and fairness in sentencing (See *Michael Kathewa Laichena & another v Republic* [2018] eKLR).



- 4) Under the proviso to section 333(2) of the *Criminal Procedure Code* (Chapter 75 of the Laws of Kenya), the court is entitled to take into account the period the applicant has spent in custody in determining the sentence. The court record shows that the applicant has served 18 years since the date of conviction.
- 5) I have considered all the mitigating and aggravating factors. The Applicant not only robbed the complainants but also chopped off their fingers among causing other injuries. Applicant has not undertaken any form of training as a way of reformation.
- 6) The Applicant is resented to Fifteen (15) years with effect from date of conviction and it is hoped that he will for the remaining term undertake some form of training as a way of reformation.

DATED THIS 09TH DAY OF FEBRUARY 2023

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistant - Kinoti

Petitioner - Present

For the State - Ms. Kitoto (PPC)

