



**Muniu v Republic (Miscellaneous Criminal Revision E208 of 2022)
[2023] KEHC 1598 (KLR) (10 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 1598 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MISCELLANEOUS CRIMINAL REVISION E208 OF 2022
MM KASANGO, J
MARCH 10, 2023**

BETWEEN

PAUL KARUGA MUNIU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Paul Karuga Muniu was on September 29, 2012 convicted of the offence of defilement contrary to section 8(1) of the *Sexual Offences Act* in the Githunguri Criminal Case No. 183 of 2011. He was sentenced to 20 years imprisonment. Paul appealed against his conviction and sentenced in Nairobi High Court Criminal Appeal No. 241 of 2012. I have however noted that although I have the original file of Githunguri Magistrate's Court, I was unable to trace the judgment in that appeal. I have however noted that Paul before this Court has stated in his affidavit that his said appeal was dismissed. It would seem from the correspondence in the Githunguri Magistrate's Court file that Paul appealed to the Court of Appeal being Criminal Appeal No. 6 of 2014. I was also unable to trace any judgment of the Court of Appeal in Githunguri Magistrate's Court file.
2. Paul filed before this court on August 10, 2022 an application before this Court seeking this court does in exercise of its discretion commute the remainder of his sentence to non-custodial sentence.
3. Paul was sentenced to 20 years imprisonment in 2012. It follows that he has according to my calculations 9 years and 6 months remaining in his prison sentence. That period possibly will be less after consideration of the period of remission. Paul, as it would seem has a pending appeal before the Court of Appeal. In my view, there is no merit in the application before me because the applicant's sentence was confirmed when his appeal was dismissed.



Disposition

4. In view of the fact that the applicant has a pending appeal before Court of Appeal and because this court finds that the application before court does not have merit, the exercise of this court's discretion as sought and the application filed in this Court on August 10, 2022 is declined.
5. I order this file be closed.

RULING DATED, SIGNED AND DELIVERED AT KIAMBU THIS 10TH DAY OF MARCH, 2023.

MARY KASANGO

JUDGE

Coram:

Court Assistant.....Mourice/Julia

For Applicant:- Absent

For State:- Mr. Gacharia

COURT

Ruling delivered virtually.

MARY KASANGO

JUDGE

