



**Nyayal v Republic (Miscellaneous Criminal Application  
E086 of 2022) [2023] KEHC 2878 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2878 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E086 OF 2022**

**RE ABURILI, J  
MARCH 24, 2023**

**BETWEEN**

**ELIAS OCHIENG NYAYAL ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant Elias Ochieng Nyayal claims in his application filed in court on August 5, 2022 that he was convicted and sentenced to serve twenty (20) years imprisonment for the offence of defilement under Section 8(1) and 8(2) of the *Sexual Offences Act* vide Maseno Principal Magistrate Sexual Offence Case No 7 of 2017.
2. That he filed HCCRA No 43 of 2018 which he withdrew before it was heard. He now seeks for reduction of the sentence imposed.
3. Upon conviction under Section 8(2) of the *Sexual Offences Act*, the court is mandated to impose upto life imprisonment. The applicant was given twenty (20) years imprisonment which is very lenient considering the seriousness of the offence.
4. I find no merit in the application filed on August 5, 2022 which is hereby dismissed.
5. Signal/order to issue and served upon applicant through the prisons authorities.
6. This file is hereby closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 24<sup>TH</sup> DAY OF MARCH, 2023**

**R. E. ABURILI**

**JUDGE**

