Pola & 3 others v Office of the Director of Public Prosecution (Miscellaneous Criminal Application E089 of 2022) [2023] KEHC 1991 (KLR) (3 March 2023) (Ruling)

Neutral citation: [2023] KEHC 1991 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MOMBASA

MISCELLANEOUS CRIMINAL APPLICATION E089 OF 2022

A. ONG'INJO, J

MARCH 3, 2023

BETWEEN

KARISA KATANA POLA ..... 1ST APPLICANT

KAHINDI KATANA POLA ..... 2ND APPLICANT

MWALIMU KATANA POLA ..... 3RD APPLICANT

KENGA KATANA POLA ..... 4TH APPLICANT

AND

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTION ..... RESPONDENT

RULING

1. The Applicants Karisa Katana Pola, Katunda Katana Pola, Mwalimu Katana Pola and Kenga Katana Pola were found guilty and convicted in Mombasa High Court Cr. Case No. 73 of 2012 with the offence of Murder. They were sentenced to serve life imprisonment.

2. The Applicants appeal in Mombasa Court of Appeal CR. Appeal No. 6 of 2019 the conviction was upheld and sentenced substituted to 30 years imprisonment from May 4, 2018 when they were convicted by the trial court. The applicant now seek that their remand period be factored in ther sentence.

3. The Applicants were arraigned in court on December 17, 2012 and their bonds were approved on June 20, 2013. The applicants were therefore in remand custody for 6 months before they were released on bond. The period of 6 months should be deducted from their sentence of 30 years pursunt to section 333(2) of the *Criminal Procedure Code*.

DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,

THIS 3RD DAY OF MARCH 2023

HON. LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of:-

Ogwel – Court Assistant

Applicant – Present in person

Mr. Ngiri for Respondent