



**Amollo v Republic (Miscellaneous Criminal Application
E005 of 2023) [2023] KEHC 3142 (KLR) (12 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3142 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E005 OF 2023**

RE ABURILI, J

APRIL 12, 2023

BETWEEN

JOSEPH JUMA AMOLLO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein Joseph Juma Amollo was convicted of the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the [Sexual Offences Act](#) vide Kisumu Chief Magistrate Sexual Offences Case No 472 of 2013.
2. He was sentenced to serve twenty (20) years imprisonment on November 29, 2017. He appealed vide Kisumu HCCRA No 2 of 2019 which appeal was heard and determined on merit and dismissed vide judgment delivered on February 23, 2022 by my predecessor Judge.
3. In the said Judgment which is now before me, the learned Judge dismissed the appeal against sentence which was affirmed. The judge stated as follows:

“For the avoidance of doubt, any period the appellant may have spent in custody prior to his sentences shall be taken into account while computing his term of imprisonment as provided in Section 333(2) of the Criminal Procedure Code Cap 75 (Law of Kenya).”
4. The Convict is back to this court vide this application filed on February 16, 2023 seeking for setting aside of sentence of twenty (20) years imprisonment and that this court counts the duration of the trial as part of the applicant’s imposed sentence in line with the requirements of Section 333(2) of the [Criminal Procedure Code](#).
5. I find this application to be an abuse of court process and is misguided.



6. The application filed on February 16, 2023 is hereby dismissed.
7. This order and the order of February 23, 2022 in HCCRA No 2 of 2019 to be served upon the applicant at Kisumu Maximum Prison via email through Prisons authorities.
8. This file is hereby closed.
9. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 12TH DAY OF APRIL, 2023

R. E. ABURILI

JUDGE

