



**Ndere v Republic (Miscellaneous Criminal Application  
E108 of 2022) [2023] KEHC 3148 (KLR) (12 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3148 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E108 OF 2022**

**RE ABURILI, J  
APRIL 12, 2023**

**BETWEEN**

**JOEL AGANDA NDERE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant/Convict Joel Aganda Ndere was convicted and sentenced to serve, according to his application dated 18<sup>th</sup> September 2022, twenty (20) years imprisonment for the offence of defilement contrary to Section 8(1) as read with Section 8(4) of the *Sexual Offences Act*.
2. He claims that the mandatory minimum sentence under Section 8(4) of the *Sexual Offences Act* is fifteen (15) years imprisonment but that the trial court enhanced his sentence to twenty (20) years imprisonment which is unlawful. That he is reformed and rehabilitated and can be socially readapted, he has weak health and unable to serve jail conditions. He however has not annexed the proceedings or judgment in original Maseno Principal Magistrate Sexual Offences Case No 934 of 2014 for this court's perusal and verification if at all his sentence was enhanced and if so, why.
3. I find the application not supported. The same is hereby dismissed.
4. The convict can file a fresh application for consideration with all the relevant court proceedings and judgment of the lower court for consideration by this court.
5. I so order.
6. This file is therefore closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 12<sup>TH</sup> DAY OF APRIL, 2023**

**R. E. ABURILI**



**JUDGE**

