



**Ekale v Republic (Criminal Revision E068 of 2021)
[2023] KEHC 18307 (KLR) (12 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 18307 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT LODWAR
CRIMINAL REVISION E068 OF 2021**

JK SERGON, J

MAY 12, 2023

BETWEEN

DAVID NAWII EKALE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. David Nawii Ekale, the applicant herein was tried on a charge of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars of the offence are that on the nights of 19th and August 20, 2013 at Nakwamekwi sub-location within Turkana county murdered Susan Afikon Ekalale.
2. The Hon Mr Justice Riechi heard the case and in the end he convicted the applicant for the lesser charge of manslaughter contrary to section 205 of the *Penal Code* and sentenced him to serve 10 years imprisonment.
3. The applicant is now before this court seeking to serve the remainder of the sentence on a non-custodial sentence. Mr Kahuthu, learned state counsel urged this court not to interfere with the sentence and leave the applicant to serve his sentence in full.
4. I have considered the rival arguments. It is apparent that the applicant is beseeching this court to revise the sentence to enable him serve a non-custodial sentence. The order on sentence was made by a judge of concurrent jurisdiction and I do not think this court has jurisdiction to interfere with the sentence in exercise of the revisionary power of this court.
5. Even if, this court had jurisdiction to entertain such an application, I am not convinced that the applicant has put forward sound grounds to sustain it. If the applicant was dissatisfied with the decision on sentence, he had the option to challenge the same on appeal and not by prompting this court to exercise its revisionary power.



6. In the end I find the applicant's oral application to be incompetent and inappropriate. The same is disallowed.

DATED, SIGNED AND DELIVERED THIS 12TH DAY OF MAY, 2022

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J. K. SERGON

JUDGE

In the presence of: -

Mr. Kahuthu for the State

Accuseds present

Court Assistant: Biwott

