



**Karoki v Republic (Criminal Petition 3 of 2019)  
[2023] KEHC 18428 (KLR) (14 June 2023) (Judgment)**

Neutral citation: [2023] KEHC 18428 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL PETITION 3 OF 2019  
HK CHEMITEI, J  
JUNE 14, 2023**

**BETWEEN**

**PAUL MURUIKI KAROKI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**JUDGMENT**

1. The applicant was charged with one James Nderitu Gichingo with the offence of robbery with violence contrary to section 296(2) of the *penal code*. The particulars were that on February 27, 2000 at Ngata farm Nakuru district robbed one John Nganga Wachira and stole assorted items. They were convicted and sentence to death. It appears the same was later commuted to life imprisonment.
2. His appeals to the High court and Court of Appeal were not successful and he has now sought the intervention of this court after the advent of the *Muruatetu* Case (2017) eKLR by the Supreme court of Kenya.
3. It must be noted that there were other cases that followed the above case and in particular touching the capital offence such as the one at hand. For instance, *William Kittiny v Republic* (2018) eKLR
4. Justice Hon Prof Joel Ngugi (as he then was) in Miscellaneous Application Number 66 of 2018(Nakuru) did review the conviction and sentence of the applicants co accused on the December 19, 2019 in which James Nderitu Gichingo was released from prison on the grounds among others that the period he had served in custody had been adequate punishment for him.
5. I propose to apply the same reasons herein. The offence when wholly considered especially the aggravating circumstances does not merit the life sentence which had been handed over to the applicant after the death sentence was commuted.



6. It is noted that that the applicant has been in custody since March 2000. This is close to 23 years ago. Although there is no evidence of what he has involved himself in while in custody this court is of the considered opinion that the said period is sufficient punishment for him. He should be allowed to start his life afresh.
7. Consequently, the commuted period of life imprisonment is set aside and is substituted with the period he has served in custody.
8. The applicant is hereby set free unless lawfully held.

**DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 14<sup>TH</sup> JUNE 2023.**

**H. K. CHEMITEI.**

**JUDGE.**

