



**Mwithi v Republic (Miscellaneous Criminal Application
E022 of 2023) [2023] KEHC 19012 (KLR) (19 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19012 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E022 OF 2023**

RE ABURILI, J

JUNE 19, 2023

BETWEEN

CHARITY MUNANIE MWITHI APPLICANT

AND

REPUBLIC RESPONDENT

(HCCR Petition No 36 of 2019)

RULING

1. The Applicant is Charity Munaine Mwithi. She was convicted and sentenced to death in two counts of the murder of her 4 and 7 years old children vide Kisumu HCCRC No 26 of 2005.
2. The Convict vide HCCR Petition No 36 of 2019 petitioned this court for resentencing and on January 30, 2020, she was resentenced to serve forty (40) years imprisonment to run from the date of conviction on November 5, 2010.
3. Later vide HCCR Misc Application E005 of 2022, she applied that Section 333(2) of the *Criminal Procedure Code* be considered and this court (High Court 2) allowed her application and ordered that the 40 years' imprisonment do run from date of arraignment on April 26, 2005.
4. Vide this application filed on May 31, 2023, she seeks for resentencing and reduction of sentence to a less severe and non-custodial.
5. I find this convict to be abusing this court's process and wasting judicial time. This court has no more jurisdiction left to exercise in her favour for the murder of 2 innocent children. She escaped from the hangman's noose courtesy of the *Muruatetu* decision by the Supreme Court.
6. For now, she must serve the sentence imposed which was further reduced by application of Section 333(2) of the *Criminal Procedure Code*, taking into account the period that she spent in custody upon arraignment in court.



7. The application for sentence reduction is found to be an abuse of court process and devoid of any merit. It is hereby dismissed.
8. This file is closed.
9. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF JUNE, 2023

R. E. ABURILI

JUDGE

