



**Abwogo v Republic (Miscellaneous Criminal Application
E042 of 2023) [2023] KEHC 23941 (KLR) (6 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23941 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E042 OF 2023**

RE ABURILI, J

OCTOBER 6, 2023

BETWEEN

ISAAC OWINO ABWOGO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant by his application dated 23rd June 2023 and filed in this court on 22nd August 2023 during the recess seeks for reduction of the 30 year prison term imposed on him by Winam Senior Principal Magistrate in Sexual Offences Case No. 005 of 2023.
2. He claims that he was charged, tried and convicted of defilement contrary to Section 8(1) as read with Section 8(2) of the *Sexual Offences Act* and sentenced to a Mandatory Minimum sentence of thirty (30) years imprisonment which he considers to be unconstitutional.
3. However, under Section 8(2) of the *Sexual Offences Act* which is the penalty section, the Mandatory Sentence provided for is life imprisonment.
4. As the trial court exercised discretion and reduced the sentence from life imprisonment to thirty (30) years imprisonment, I find no merit in this application and assertion that the Applicant was sentenced to serve a Mandatory Minimum Sentence.
5. I find the application dated 23rd June 2023 by Isaac Owino Abwogo to be without merit and the same is hereby dismissed.
6. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 6TH DAY OF OCTOBER, 2023.

R. E. ABURILI



JUDGE

