



**Kalale v Republic (Miscellaneous Criminal Application  
E001 of 2023) [2023] KEHC 23089 (KLR) (4 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23089 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
MISCELLANEOUS CRIMINAL APPLICATION E001 OF 2023**

**RB NGETICH, J**

**OCTOBER 4, 2023**

**BETWEEN**

**THOMAS KALALE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(High Court at Kabarnet vide HCRA No. 80 of 2017.)*

**RULING**

1. The applicant Thomas Kalale was charged with the offence of defilement of a girl contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act* No. 3 of 2006.
2. Particulars were that on the 24<sup>th</sup> day of March 2015 in Marigat Sub-County within Baringo County the applicant did intentionally and unlawfully commit an act which caused your penis to penetrate the vagina of SJL a girl aged 14 years in contravention of the said act.
3. The appellant was sentenced to 20 years imprisonment on 1/2/2016. He filed Appeal to the High Court at Kabarnet vide HCRA No. 80 of 2017. Justice Muriithi who heard the appeal dismissed it and upheld sentence imposed by the Trial Court.
4. The applicant filed this application on 9<sup>th</sup> June 2023 seeking reduction of sentence and to have period served in remand reduced from sentence. He submitted that he was in remand for one year.
5. The state counsel Ms Ratemo did not oppose the prayer to have period served in remand considered in sentence imposed. She however opposed reduction on sentence on ground that appeal was heard by Justice Muriithi in HCRA No. 80 of 2017 who upheld the sentence and argued that this court being a court with concurrent jurisdiction has no jurisdiction to reduce the sentence.



6. I have perused the HCRA No. 80 of 2017 placed in this application file and confirm that Justice Muriithi heard the applicant's appeal and upheld the Trial Court's decision on both conviction and sentence.
7. I agree with State Counsel that this court being a court with concurrent jurisdiction, I have no jurisdiction to review my learned colleague's decision on sentence. Application for review of this court's order/sentence can only be entertained by the Court of Appeal.
8. I therefore find that I have no jurisdiction to reduce sentence upheld by Justice Muriithi.
9. In respect to period served in remand, I direct that the said period be reduced from the sentence imposed by the Trial Court and upheld by Justice Muriithi.
- 10.

**Final Orders :-**

1. Application for review/reduction of sentence is hereby dismissed.
2. Sentence served by applicant in remand to be reduced from the sentence he is serving.

**RULING DELIVERED, DATED AND SIGNED IN VIRTUALLY AT KABARNET THIS 4<sup>TH</sup> DAY OF OCTOBER 2023.**

.....

**RACHEL NGETICH**

**JUDGE**

**In the presence of:**

Mr. Kemboi - Court Assistant.

Ms Ratemo for State.

Applicant present.

