



**Langat alias Zacharia v Republic (Criminal Miscellaneous Application E012 of 2022) [2023] KEHC 23677 (KLR) (17 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23677 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL MISCELLANEOUS APPLICATION E012 OF 2022**

**JK SERGON, J**

**OCTOBER 17, 2023**

**BETWEEN**

**CHARLES LANGAT ALIAS ZACHARIA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant vide HCCR Case No. 28 of 2015 was charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#), he was subsequently convicted of the said offence and sentenced to death.
2. The applicant previously moved this court for resentencing vide a notice of motion and a supporting affidavit sworn the applicant herein.
3. The applicant averred that the application for resentencing was premised on article 165 (3) (b) of the [Constitution](#) which empowers the court to deal with the resentencing application.
4. The applicant averred that the application was guided by the decision in [Francis Karioko Muruatetu & another v Republic](#) [2017] eKLR in which the Supreme Court declared that the mandatory nature of the death sentence was unconstitutional.
5. This court vide a ruling delivered by Dulu, J on December 19, 2019 found that the application was incompetent as the applicant was sentenced after the Supreme Court decision in the Muruatetu case, this court struck out the application and directed that the applicant could appeal to the Court of Appeal.
6. On February 17, 2022, the applicant subsequently moved this court for resentencing, the matter was fixed for hearing on July 25, 2023. The prosecution did not oppose the said Application.



7. After perusing the record, I find that this court previously heard and determined an application for resentencing by the applicant and dismissed it.
8. In the circumstances, the applicant's resentencing application was heard and determined by the High Court. He cannot return to the High Court for a review of the sentence imposed. He is at liberty to make an argument for reduced sentence at the Court of Appeal.
9. Consequently, I reach the conclusion that the applicant cannot, in the circumstances of this case, benefit from the doctrine propounded in *Muruatetu Case*. I therefore dismiss his application for resentencing as unmeritorious.
10. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 17<sup>TH</sup> DAY OF OCTOBER, 2023.**

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**J.K. SERGON**

**JUDGE**

