



**Ochieng v Republic (Criminal Miscellaneous Application
E012 of 2023) [2024] KEHC 13388 (KLR) (22 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13388 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL MISCELLANEOUS APPLICATION E012 OF 2023
RE ABURILI, J
OCTOBER 22, 2024**

BETWEEN

VINCENT ONYANGO OCHIENG APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Vincent Onyango Ochieng is a convict of the offence of robbery with violence contrary to Section 296 (2) of the [Penal Code](#) vide Siaya PMCr. Case No. 9/2019.
2. He was sentenced to serve 15 years imprisonment on 8/8/2019. He appealed vide Siaya HCCRA No. 63 of 2019 which appeal he voluntarily withdrew upon realization that he had been handed an extremely lenient sentence which could be enhanced on appeal, were the conviction to be upheld.
3. He returned to court later vide HCR Misc. Cr. Application No. E045/2022 seeking for sentence review and the court dismissed that application wherein the court was of the view that the convict had been handed lenient sentence which was lawful taking into account his mitigation and the Francis Karioko Muruatetu Supreme Court decision.
4. The convict is back vide his application dated 17/1/2024 seeking the court considers the period spent in custody and leniency of this court.
5. I have considered the application and perused the lower court file in Siaya SP Cr. 9/2019. I observe that the convict was handed sentence which was extremely lenient considering that he faced death sentence upon conviction. He was convicted on two counts of robbery with violence.
6. There is no evidence that he was released on bond pending trial. The sentences of 15 years imprisonment were to run concurrently.



7. Nonetheless, the convict appealed and he had the opportunity to ventilate that issue on appeal before he withdrew the entire appeal.
8. Litigation by instalment is impermissible.
9. I find the application dated 17/1/2024 devoid of any substance. It is hereby dismissed.
10. This file is closed.
11. I so order.

RULING DATED, SIGNED AND DELIVERED THIS 22ND DAY OF OCTOBER, 2024

R. E. ABURILI

JUDGE

