



**Osman v Republic (Criminal Revision E082 of 2024)
[2024] KEHC 15744 (KLR) (16 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15744 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL REVISION E082 OF 2024
JN ONYIEGO, J
DECEMBER 16, 2024**

BETWEEN

ABDI RAHMAN ALI OSMAN APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of robbery with violence contrary to section 296(2) of the *penal court*. Upon being found guilty, he was convicted and sentenced to death on 01-08-2000. He subsequently appealed against both the conviction and sentence to the high court. His appeal was dismissed and the sentence upheld. Undeterred, he moved to the court of appeal where again his appeal was dismissed. He however benefitted from presidential prerogative of mercy where his death penalty was commuted to life imprisonment.
2. He is now before this court seeking for leniency thus citing the case of *Manyeso v Republic* criminal appeal No. 12 of 2021(2023) (Judgment) where the court of appeal held life sentence to be degrading and inhuman in so far it holds somebody in prison indefinitely.
3. In response, the state represented by Mr. Okemwa opposed the application arguing that the court is functus officio the same having pronounced itself on the same subject.
4. I have considered the application herein and the response herein. There is no dispute that the applicant was sentenced to death on the offence of robbery with violence. It is also not in dispute that the applicant has exhausted his available remedies on appeal including the presidential amnesty. He is however relying on the *Manyeso case(supra)* to argue that the sentence of life imprisonment which is indeterminate is inhuman and degrading.
5. Although the *Manyeso* case held that life imprisonment was inhuman and degrading, the minimum statutory penalty imposed by law is the death penalty. Unless and until amended by the legislature, the



same shall remain to be the lawful and legal position. This position was held by the supreme court in the case of *Republic vs Joshua Mwangi Gichuki* Petition No. E018 of 2023.

6. In a nut shell, I do not find any legal basis upon which this court can interfere with the sentence imposed and confirmed by superior courts. To that extent, I agree with the prosecution that the application is not merited as this court is *functus officio*. Accordingly, the application is dismissed.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 16TH DAY OF DECEMBER 2024

J. N. ONYIEGO

JUDGE

