



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MIGORI**

**CRIMINAL CASE NO. 105 OF 2014**

**REPUBLIC.....PROSECUTOR**

**Versus**

**PAUL OTIENO NDEJWE.....ACCUSED**

**RULING**

**Paul Otieno Ndejwe** was convicted of the offence of Murder and sentenced to death by J. Majanja. Later the applicant petitioned the same court in Petition Number 2 of 2018 seeking the setting aside of the death sentence. J. Mrima heard the petition and reduced the sentence from death to forty (40) years imprisonment. The applicant is again before this court seeking leniency and a reduction of the sentence. He purported to move this court under Articles 22, 50(1) (50) (2) 165 (6) (7) 23 (1) (3) of the Constitution. The application is described as a revision.

This court has concurrent jurisdiction with J Mrima who heard the Petition 2 of 2018 and reduced the sentence to forty (40) years imprisonment. There is no provision in law for the applicant to come back before the same court seeking a reduction of the sentence.

Besides, the applicant cannot be seeking revision of the sentence because this court cannot supervise a court of concurrent jurisdiction. Supervisory jurisdiction of the High Court under Article 165 of the Constitution, Section 362 and Section 364 of the Criminal Procedure Code will only apply to the subordinate courts and tribunals but not a court of concurrent jurisdiction. If the applicant is aggrieved by the sentence meted by J Mrima, his only recourse is to the Court of Appeal . The accused coming back to this court for reduction of sentence amounts to an abuse of the court process and it must be stopped.

**DELIVERED, DATED AND SIGNED AT MIGORI THIS 16TH DAY OF JUNE, 2021.**

**R. WENDOH**

**JUDGE**