

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISCELLANEOUS CRIMINAL APPLICATION NO. E017 OF 2021

ROBERT WANGORO.....1ST APPLICANT

DAVID WAFULA MANGA.....2ND APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The matter has come up before this court for the Petition of the applicants filed on 12.6.2020. the same had initially been filed before the Constitution and Human Rights Division of the High Court, Milimani. In a ruling of the Hon. Justice A. C. Mrima dated 17.12.2020, the Honorable Judge referred this petition for hearing before this division (Criminal) since in his view, the matters and issues involved i.e resentencing squarely lie under the Criminal division. In the said ruling, the Honourable Judge noted that all the divisions of the High Court have the same Constitutional Jurisdiction bestowed upon the High Court under Article 165 of the Constitution. The Judge went to refer all the relevant petitions for hearing before this court, including this one.

In today's submissions, it has come out from both the prosecution side and the petitioners themselves that upon conviction by the lower court (Githunguri), they appealed. Their appeal was dismissed. Their 2nd appeal to the Court of Appeal was equally dismissed. They then filed a petition before the High Court in Kiambu which referred the matter back to the trial court in Githunguri. The court at Githunguri confirmed their death sentences.

Since this matter has been handled by the High Court at Kiambu, which has concurrent jurisdiction with this court, I am of the view that this petition would be properly be handled by the High Court at Kiambu. This would also be to guard against the 2 High Courts issuing conflicting orders.

I accordingly therefore order that this petition, No. 194 of 2020 Robert Wangoro (1st Petitioner), David Wafula Manga (2nd Petitioner) Versus Republic, be transferred for hearing before the High Court of Kenya, Kiambu. The Deputy Registrar of this court is hereby directed to immediately facilitate the transfer of this file to the High Court of Kenya Kiambu. Orders accordingly.

D. O. OGEMBO

JUDGE

8.6.2021.

Court:

Ruling read out in court (online) in presence both applicants and Mr. Kiragu for the state.

D. O. OGEMBO

JUDGE

8.6.2021.