

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MIGORI

CRIMINAL PETITION NO. E028 OF 2021

PAUL MBOYA OMANGA.....APPELLANT

-VERSUS-

REPUBLIC.....RESPONDENT

JUDGMENT

The Petitioner **Paul Mboya Omanga**, was convicted for the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the Sexual Offences Act and sentenced to twenty (20) years imprisonment. He applied to the High Court for resentence following the **Francis Karioko Muruatetu**'s decision by the Supreme Court. J. Mrima enhanced the sentence to thirty five (35) years imprisonment.

The Petitioner has now filed this Petition pursuant to Articles 22, 23, 25, 27(1)(2)(4)50(2), 159 and 165(3) of the Constitution. His complaint is that the sentence was manifestly harsh and excessive and he now pleads for mercy; that he has undergone courses and is now reformed and should be given another chance to join his family.

Mr. Kimanthi opposed the petition and urged the petitioner to move to the Court of Appeal if he is aggrieved by J. Mrima decision.

Firstly, the petitioner has not alluded to any breach of his rights under the provisions of the Constitution that he has cited.

Secondly, instead of appealing to the High Court, the petitioner opted to come for resentence. Unfortunately, for him J. Mrima, enhanced the sentence is thirty five (35) years imprisonment. This court, being a court of concurrent jurisdiction as J. Mrima, has no supervisory jurisdiction over a High Court if the petitioner is aggrieved by J. Mrima's decision his recourse is to the Court of Appeal.

In the end, the petition is not merited and is hereby dismissed.

DELIVERED, DATED AND SIGNED AT MIGORI THIS 22ND DAY OF SEPTEMBER, 2021.

R. WENDOH

JUDGE