



**REPUBLIC OF KENYA**

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

**HCCR REV. NO. E018 OF 2020**

**ALEX KIOKO KIKUVI..... APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. Before me is a Chamber Summons filed by the applicant for re-sentencing, based on the Supreme Court reasoning in the case of **Francis Muruatetu –vs- Republic Petition No. 15 of 2015**.
2. It is supported by an affidavit sworn by the applicant in which he states that he was convicted of incest in Makueni magistrate’s criminal case No. 456 of 2016.
3. The application is opposed by the Director of Public Prosecutions through an affidavit sworn on 12<sup>th</sup> July 2021 by Anne Penny Gakumu, Senior Principal Prosecuting Counsel.
4. The applicant also filed written submissions in support of his application.
5. Having considered the application and noting that the reasoning in the Supreme Court decision in the Muruatetu case relates only to mandatory death sentences, I am of the view that this application is misconceived and is for dismissal. The applicant can of course appeal in accordance with the law if he is dissatisfied with either the conviction or the sentence of the trial magistrate or both.
6. As for the application for review of sentence herein, the same is dismissed.

**DELIVERED, SIGNED & DATED THIS 4TH DAY OF NOVEMBER 2021, IN OPEN COURT AT MAKUENI.**

.....

**GEORGE DULU**

**JUDGE**