

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL PETITION NO. E061 OF 2021

ENOCK OKOYANA MURAMBI.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. This matter was placed before me for the purpose of giving directions, in view of the recent decision by the Supreme Court in *Francis Karioko Muruatetu & another vs. Republic; Katiba Institute & 5 others (Amicus Curiae)* [2021] (Koome CJ&P, Mwilu DCJ&VP, Ibrahim, Wanjala, Ndung'u & Lenaola SSJJ), with respect to mandatory sentences, where it was clarified that the decision, in *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ), had arisen from proceedings relating to murder, under section 204 of the Penal Code, Cap 63, Laws of Kenya, and the position stated in the said decision was intended to apply only to mandatory sentences with respect to murder cases.

2. The petition herein, undated, but filed herein on 22nd April 2021. The petition does not appear to be based on *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ&P, Mwilu DCJ&VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ). The petitioner seeks review of his sentence, where he had been convicted of defilement, under section 8(2) of the Sexual Offences Act, No. 3 of 2006, in Kakamega CMCCRC No. 1944 OF 2009, and was sentenced to fifteen years' imprisonment. He filed appeal in at the High Court, the details of the file are not disclosed, which the appellate court dismissed. He seeks review on grounds of old age.

3. The unfortunate thing about the petition, herein, the affidavit in support of it and the Motion accompanying it, is that they all have not been signed by the applicant. The omission to execute the pleadings renders them unauthentic and incompetent. No court can consider the merits of such filings, and therefore I cannot give any directions on disposal. The lack of execution would mean that there is no valid petition before court, and I hereby strike the same out. The file shall be closed.

4. The Deputy Registrar shall cause copies of this ruling to be availed to the petitioner and the office of Director of Public Prosecutions, Kakamega.

PREPARED, DATED AND SIGNED AT KAKAMEGA THIS 15TH DAY OF NOVEMBER, 2021

W MUSYOKA

JUDGE