



LHC v Director of Public Prosecutions (Constitutional Petition 151 of 2019) [2021] KEHC 293 (KLR) (15 November 2021) (Judgment)

Neutral citation: [2021] KEHC 293 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CONSTITUTIONAL PETITION 151 OF 2019
JM MATIVO, J
NOVEMBER 15, 2021**

BETWEEN

LHC PETITIONER

AND

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

JUDGMENT

1. The Petitioner is said to have been of unsound mind at the time of the commission of the offence. Upon being convicted he was sentenced to serve under president’s pleasure. For starters, indeterminate sentences have been held to be unconstitutional in several cases in the country. Such that if this sentence was being meted today, I doubt whether the court could have imposed an indeterminate sentence.
2. The Petitioner is said to have been in prison for 20 years (5 years in custody pending trial and 15 years in prison). The Re-sentencing report/socio-inquiry reports are favourable. The prosecution is not opposed to the court Re-sentencing the Petitioner. Taking into account the peculiar circumstances of this case and the said reports and period the Petitioner has been incarcerated, I reduce the sentence imposed upon the Petitioner to the period served in jail. I order that he (the Petitioner Mr. LHC) be released forthwith unless otherwise lawfully held.

DATED, DATED AND DELIVERED IN MOMBASA VIRTUALLY THIS 15TH DAY OF NOVEMBER 2021.

JOHN M. MATIVO

JUDGE

