

REPUBLIC OF KENYA

IN THE HIGH COURT AT KERUGOYA

CRIMINAL PETITION NO. 6 OF 2019

(From original conviction and sentence in Criminal Case

No. 294 of 2012 of the Principal Magistrate's Court at Baricho)

CHARLES WAWERU MAINA.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

1. The Petitioner was charged convicted and sentenced to serve 20 years imprisonment for the offence of Defilement on the 27.9.2012.
2. He exhausted his Appeal options to this court and the Court of Appeal vide Court of Appeal Criminal Appeal 11 of 2014 which was dismissed on the 3.2.2016.

He has filed this petition pursuant to the "**Muruatetu**" decision for re-sentence hearing.

Prior to the 6.7.2021, the "**Muruatetu**" decision was applied for re-sentence hearing in other offences that carry mandatory minimum sentences.

3. On the 6.7.2021, the Supreme Court, further to its judgment in the "**Muruatetu**" decision gave policy guidelines and directions on the applicability of the decision in the "**Muruatetu**" case rendered on the 14.12.17, that applications for re-sentence hearing based on the "**Muruatetu**" decision for any other offence save for **Murder under Section 203 and 204 of the Penal Code** shall not be entertained, and that the said guidelines apply only to sentences of the offence of **Murder Contrary to Section 203 and 204 of the Penal Code**.

4. Consequently, this petition cannot be entertained. It is dismissed.

DATED AND SIGNED THIS.....DAY OF,2021

J. N. MULWA

JUDGE

DATED AND DELIVERED AT KERUGOYA THIS 15TH DAY OF DECEMBER 2021

R. M. MWONGO

JUDGE