



**REPUBLIC OF KENYA**

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

**HCCR REV. NO. E130 OF 2021**

**CHARLES KYALO KATIKU ..... APPLICANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before me, is an application brought by way of Notice of Motion by the applicant under section 333(2), 362 and 364 of the Criminal Procedure Code (cap. 75) for review of sentence.
2. The applicant was convicted in Kilungu Criminal Case No. 350 of 2016 for trafficking in narcotic drugs and sentenced to 10 years imprisonment. He appealed to this court in Makueni High Court Criminal Appeal No. 42 of 2019 and his appeal was dismissed on 11<sup>th</sup> October, 2019.
3. He has however, now come to this court again, through the present application for review of sentence.
4. This is not an appeal, but an application for review of sentence. I note that this appeal to this court has already been heard and determined as stated above.
5. Though it is not specifically stated in the application, I take it that this is an application for review of sentence under the **Muruatetu** case, jurisprudence, as this court cannot review its own decision, as the appeal of the applicant has already been dismissed and both his conviction and sentence upheld.
6. In my view, this application for review of sentence for review of sentence has no merits and is for dismissal as the Supreme Court on 6/7/2021 issued further directions in the **Muruatetu** case, to the effect that the jurisprudence in that case only relates to mandatory death sentences in murder cases under section 203 as read with section 204 of the Penal Code, and not to any other sentences be they mandatory death sentence or other sentences. Thus the **Muruatetu** case jurisprudence does not apply to the applicant's case which is a case of trafficking in narcotic drugs.
7. In my view, the only possible option open to the applicant now is for him to appeal to the Court of Appeal, subject to the legal rules applicable.
8. As for this application, in view of the above reasons, it has no merits. The application is thus dismissed.

**DELIVERED, SIGNED & DATED THIS 2ND DAY OF DECEMBER 2021, IN OPEN COURT AT MAKUENI.**

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**GEORGE DULU**

**JUDGE**