



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT KERUGOYA**

**CRIMINAL PETITION NO. 22 OF 2019**

*(From original conviction and sentence in Criminal Case*

*No. 272 of 2015 of the Chief Magistrate's Court at Kerugoya)*

**MOSES MURIITHI GICHIMU.....PETITIONER**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

1. The Petitioner Moses Muriithi Gichimu was charged with the offence of **Robbery with Violence Contrary 296 (2) of the Penal Code** and sentenced to death at Kerugoya CMCC Criminal Case No. 272 of 2015 on 30.3.2016.

The death sentence was later commuted to life imprisonment by the President.

His appealed at the High Court in Kerugoya in **Criminal Appeal No. 16/2018** was dismissed.

2. He proceeded to apply for review of his sentence at the High Court through a petition dated 27.9.2019 pursuant to the Supreme Court decision in **Francis Muruatetu -V- Republic [2017] eKLR**. He prays for reduction of the sentence.

3. Prior to **6.7.2021**, the "**Muruatetu**" decision was widely applied by the courts to hear re-sentencing applications and reduce sentences for offences that carry mandatory minimum sentences.

However, on the said date, the **6.7.2021**, the Supreme Court gave policy guidelines and directions on the application of its decision rendered in the 14.12.2017, and rendered that the decision on **Muruatetu** and these guidelines apply **only** in respect to sentence of **Murder under Section 203 and 204 of the Penal Code**.

Thus, applications for sentence re-hearing for any other offence are excluded, including robbery with violence.

This petition is therefore dismissed.

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

**J. N. MULWA**

**JUDGE**

**DATED AND DELIVERED AT KERUGOYA THIS 15<sup>TH</sup> DAY OF DECEMBER 2021**

**R. M. MWONGO**

**JUDGE**