



**REPUBLIC OF KENYA**

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

**MISC. CRIMINAL APPLICATION NO. 19 OF 2020**

**PATRICK AJODE OCHIENG.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Application under Rule 113 of the Court of Appeal Rules, 2010) (From Original Criminal Case No. 1021 of 2009 at SPM's Court, Siaya before Hon. B.M. Ochoi (SPM) dated 3.11.2013 and against Judgment of the High Court of Kenya at Siaya in Criminal Appeal No. 28 of 2016 before Hon. Justice D.S. Majanja dated 8<sup>th</sup> July 2017)*

**RULING**

1. I have considered the application filed on 6/3/2020 by the applicant/convict **Patrick Ajode Ochieng**. I observe that the impugned decision was made on 28/7/2016 by Hon. Makau-J dismissing the applicant's appeal against 10 year sentence for the offence of Rape in Siaya **Criminal Appeal No. 28 of 2016**.

2. I am also aware that the same applicant/convict did seek Sentence Revision before this court vide Cr. Revision No. 48/2019 of 26/9/2019 which application was dismissed.

3. That being the case, and four years after conviction and sentence, the convict cannot claim that he now wants to exercise his right of appeal against dismissal of his appeal.

4. The applicant is guilty of inordinate laches. There is no merit in his application for leave to appeal out of time if he has served 6 years and 3 months of the prison term and he alleges he has a balances of 5 months only to complete the same, taking into account remission as alleged.

5. For the above reasons, I find this application an abuse of court process and an afterthought. It is devoid of merit and is hereby dismissed.

6. File closed.

Orders accordingly.

**Dated, signed and Delivered at Siaya, this 16<sup>th</sup> Day of July, 2020**

**R.E. ABURILI**

**JUDGE**