

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

PETITION NO. 16 OF 2018

SHADRACK EKAI.....PETITIONER

VERSES

REPUBLICRESPONDENT

RULING

1. The Applicant was convicted for the offence of Murder **IN KITALE CRIMINAL CASE NO 12 OF 2009** and sentence to suffer death on the 15th day of March 2011. The Applicant has since served about 9 years of the period. His application dated 19th April 2018 wishes to take advantage of Supreme Court of Kenya decision in the case of **FRANCIS MURATETU & ANOTHER PETITION NO 16 OF 2015** in which the Apex Court granted a judicial body an opportunity to tamper with the statutory mandatory sentences such as those provided in capital offences.

2. The Applicant prays that the sentence of death meted against him ought to be reconsidered and he is therefore praying for a non-custodial sentence.

3. This court has perused the court's judgement as well as the actions the Applicant has taken to improve himself while in prison. He has done several religious courses as well as other trainings.

4. The learned state counsel did not object to the application and left it to the discretion of the court.

5. In light of the above findings, and the directives by the Supreme Court above this court shall set aside the death sentence meted against the Applicant and hereby substitute it with a sentence of 20 years' imprisonment from 15th March 2011.

6. Orders accordingly.

Dated, signed and delivered at Kitale this 1st day of October 2020.

H. K. CHEMITEI

JUDGE

1/10/2020

In the presence of:-

Miss Mumo for the Respondent present

Applicant – Present

Court Assistant – Kirong

Ruling read in open court.