

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

CRIMINAL MISC. APPLICATION NO. 11 OF 2019

PMK.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

1. **PMK**, the Applicant, was convicted of the offence of **Incest** and **Assault** and sentenced to **eleven (11) years imprisonment** on the **26th September, 2017**.
2. He has approached this Court by way of Notice of Motion seeking to appeal out of time.
3. At the hearing of the Application he told the Court that, todate he is satisfied with the conviction but would like to appeal against the sentence meted out.

Section 349 of the **Criminal Procedure Code** provides thus:

“An appeal shall be entered within fourteen days of the date of the order or sentence appealed against:

Provided that the court to which the appeal is made may for good cause admit an appeal after the period of fourteen days has elapsed, and shall so admit an appeal if it is satisfied that the failure to enter the appeal within that period has been caused by the inability of the appellant or his advocate to obtain a copy of the judgment or order appealed against, and a copy of the record, within a reasonable time of applying to the court therefor.”

4. The Appellant was sentenced to a minimum sentence provided for the offence of incest. The Appellant did not attempt to obtain a copy of the record or Judgment for the last two (2) years having been satisfied with the decision of the Court. Even if he appealed against sentence, the order will be no different from the sentence meted out.
5. In the result, there is no good cause to move this Court to admit an Appeal out of time. Consequently, the Application lacks merit. It is therefore dismissed.
6. It is so ordered.

Dated, Signed and Delivered at Kitui this 13th day of June, 2019.

L. N. MUTENDE

JUDGE