

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

CRIMINAL MISC. APPLICATION NO. 6 OF 2019

DAUD AHMED YUSSUF.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant was charged with offence of robbery with violence contrary to section 296(2) of the Penal Code (Cap. 63 Laws of Kenya). Particulars being that on 25/6/2005 at Garissa town, Garissa District jointly with another robbed **Anab Osman Issack** Kshs.24,000/=, 2 mobile phones Nokia make 1100 valued at Kshs.38,000/= and immediately before and/or immediately after time of such robbery used personal violence to the said **Anab Osman Issack**.
2. He pleaded not guilty and matter went into trial. He was found guilty and convicted and sentenced to death on 9/3/07.
3. He lodged HCCRA No. 65 of 2007 at Meru High Court which was heard and dismissed.
4. He proceeded to Court of Appeal at Nyeri vide Criminal Appeal No. 107 of 2011 which was also dismissed on 29/5/2013.
5. He has now come to this court for resentencing relying on Supreme case of **Muruatetu**.
6. The prosecution does not oppose the same application thus the court makes the following orders:-

(1) The death sentence is set aside.

(2) The applicant shall be presented to Chief Magistrate Court at Garissa for resentencing in the CMCRC No. 747/2005.

(3) Orders accordingly.

DATED, DELIVERED AND SIGNED AT GARISSA THIS 7TH DAY OF NOVEMBER, 2019.

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C. KARIUKI

JUDGE