



**REPUBLIC OF KENYA**

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

**CRIMINAL MISC. APPLICATION NO. 19 OF 2019**

**DAUDI MUTUA KATU.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. The applicant Daudi Mutua Katu was charged with offence of robbery with violence contrary to section 296(2) of the Penal Code whereof he was convicted and sentenced to death which was commuted to life sentence by the President of the Republic of Kenya.
2. He appealed in Garissa HCCRA No. 142 of 2013 whereof the same was dismissed after matter was fully heard.
3. He has now moved court for resentencing pursuant to the Supreme Court case of **Muruatetu** which declared mandatory aspect of death sentence unconstitutional.
4. The State does not oppose the application. Thus the court makes the following orders:-

*i. The death sentence subsequent in Criminal Case No. 150 of 2012 – Chief Magistrate’s Court at Garissa dated 20/8/2013 is set aside.*

*ii. The matter is referred back to the Chief Magistrate’s Court Garissa for resentencing after considering mitigation.*

**DATED, DELIVERED AND SIGNED AT GARISSA THIS 7<sup>TH</sup> DAY OF NOVEMBER, 2019.**

.....

**C. KARIUKI**

**JUDGE**