

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

MISC. CRIMINAL APPLICATION NO. 76 OF 2016

MUSEREGA SAMWEL CHACHA.....APPLICANT

=VRS=

REPUBLIC.....RESPONDENT

RULING

The Applicant has by a Notice of Motion filed herein on 31st October 2015 petitioned this Court for revision of his sentence. Although he did not provide the proceedings or judgement he told this Court that he was sentenced to fifteen years imprisonment for defiling a child of fifteen years.

Mr. Ochieng, Learned Prosecution Counsel, intimated that he was unable to respond to the application in the absence of the proceedings of the Lower Court but nevertheless he urged that in view of the Applicant's age this Court could exercise its discretion in his favour.

I have considered the application and the submissions by both sides carefully. The Applicant did not provide this Court with material (proceedings and judgement) such as would enable it to determine his application. It is not even clear from the application which Court heard his case and was mum on this at the hearing. Be that as it may, he has disclosed that he is serving fifteen years for defiling a child aged fifteen years.

Section 8 (4) of the Sexual Offences Act provides for a minimum sentence of twenty years for such an offence. He was sentenced to fifteen years which is less than the minimum provided. He told this Court he is 26 years old although in my view he looks much older. He has not given this Court any ground to warrant revision of his sentence. The application is dismissed.

It is so ordered.

E. N. MAINA – J

17/07/2018

Delivered in open Court in the presence of the Applicant, Mr. Ochieng for the DPP and Millicent – the Interpreter.

E. N. MAINA – J

17/07/2018