



**Gikundi v Republic (Miscellaneous Criminal Application E065 of 2023)
[2025] KEHC 13551 (KLR) (29 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 13551 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
MISCELLANEOUS CRIMINAL APPLICATION E065 OF 2023
SM GITHINJI, J
SEPTEMBER 29, 2025**

BETWEEN

JOTHAM GIKUNDI APPLICANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. By way of a Notice of Motion filed on 11th May, 2023 the applicant approached this Court seeking for orders that:-
 - i. This Honourable Court be pleased to allow his application under Section 333(2) of the Criminal Procedure Code.
 - ii. This Honourable Court be pleased to allow admit (sic) and give any other orders that deem just in the circumstances of this application.
 - iii. The Petition herein be heard at first instance.
2. However, by a later Chamber Summons dated 13th November, 2024 the Applicant herein seeks the period spent in custody during his trial, of which he claims is over 2 years, be deducted from the sentence meted of 20 years imprisonment.
3. I do not have the full lower court record but from an attached judgment of the trial court in the matter, it is clear that the applicant was convicted and sentenced on two counts as follows:-
 1. Defilement of a girl contrary to Section 8(1) of the *Sexual Offences Act* No. 3 of 2006 as read with Section 8(3) of the said Act, to a minimum sentence of 20 years imprisonment.
 2. Abduction with intent to confine, contrary to Section 259 of the Penal Code, to a sentence of 3 years imprisonment; both sentences to run concurrently.



4. The Applicant reveals that after the said sentences he appealed to the High Court of Kenya vide High Court Criminal Appeal No. 51 of 2015 and this appeal was dismissed.
5. The Respondent filed grounds of opposition dated 33rd June, 2025. In it, they oppose the application on the grounds that this Court lacks jurisdiction to hear and determine the application as doing so will be tantamount to supervising, reviewing or entertaining an appeal from a court of concurrent jurisdiction.
6. Having considered the application and submissions by both sides, the issue that stands out for determination is whether this Court has jurisdiction to entertain the application.
7. It is trite that the High Court is a Superior Court of record under Article 165 of *the Constitution* of Kenya, 2010. However, all Judges of the High Court exercise concurrent jurisdiction.
8. Accordingly, one Judge of the High Court has no supervisory or appellate jurisdiction over another Judge of equal status. In *Jasbir Singh Rai and 3 Others -vs- Tarlochan Singh Rai and 4 Others*[2007] e KLR, the court of appeal emphasized that: -

The High Court cannot purport to overturn a decision of another Judge of equal and concurrent jurisdiction. Parties aggrieved must seek relief in the Court of Appeal.”
9. In the premises, I find and hold that this court lacks jurisdiction to interrogate or overturn the findings of another Court of concurrent jurisdiction. The application is therefore, dismissed for Want of Jurisdiction.

DATED AND DELIVERED THIS 29TH DAY OF SEPTEMBER, 2025.

S. M. GITHINJI

JUDGE

