



**Bwanamkuu v ODP (Criminal Revision E028 of 2025)  
[2025] KEHC 14293 (KLR) (8 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14293 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT GARSEN  
CRIMINAL REVISION E028 OF 2025  
JN NJAGI, J  
OCTOBER 8, 2025**

**BETWEEN**

**SALIM BWANAMKUU ..... APPLICANT**

**AND**

**THE ODP ..... RESPONDENT**

**RULING**

1. The Applicant herein was convicted by a Magistrate’s Court for the offence of defilement contrary to Section 8(1) as read with of the [Sexual Offences Act](#). He has now filed an undated application seeking for review of sentence.
2. The application is made pursuant to a judgment by the High Court (Odunga J) in the case of Philip Mueke Maingi & 5 others -v- Republic, Machakos HC Constitutional Petition No. 17 of 2021 where the learned judge held that the mandatory sentences under section 8 of the [Sexual Offences Act](#) are unconstitutional and therefore that all sexual offenders who were convicted and sentenced under mandatory minimum penal laws are deserving to have their mitigation taken into account in their sentences.
3. The Respondent did not file a response to the application.
4. I have considered the application. It is my position that the judgment by Odunga J. in the above stated case Philip Mueke is no longer applicable in view of the Supreme Court decision in the case of Republic -v- Gichuki Mwangi: Imitative for Strategic Litigation in Africa (ISLA and 3 others (amicus curiae) (2024) 34 KLR where the court stated that the mandatory sentences under the [Sexual Offences Act](#) are lawful and will remain so as long as the [Sexual Offences Act](#) remains in place. This court is bound by the pronouncements of the Supreme Court. In view of the decision by the Supreme Court in the said case, there is no basis for this court to review the fifteen years sentence imposed on the Applicant by the trial court.



5. In view of the foregoing, if find no merit in the application and the same is thereby dismissed.

**DELIVERED, DATED AND ISSUED AT GARSEN THIS 8<sup>TH</sup> DAY OF OCTOBER 2025.**

**J. N. NJAGI**

**JUDGE**

In the presence of:

Ms Mkongo for Respondent

Petitioner: Present in GK prison Malindi

Court Assistant: Rahma

