



**CGT v Republic (Criminal Revision E045 of 2025)  
[2025] KEHC 13581 (KLR) (1 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13581 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
CRIMINAL REVISION E045 OF 2025  
LN MUTENDE, J  
OCTOBER 1, 2025**

**BETWEEN**

**CGT ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. CGT was arraigned on 12.09.2019 for the offence of Incest contrary to Section 20(1) of the [Sexual Offences Act](#). The particulars of the offence were that on the 08/07/2019 within Nyandarua County being a male person caused his penis to penetrate the vagina of RNG a female who to his knowledge was his daughter.
2. In the alternative, he faced a charge of Committing an Indecent Act with the child by touching her vagina with his penis.
3. He denied the charges upon arraignment. He was taken through full trial, found guilty of the main charge, convicted and sentenced to serve ten (10) years imprisonment.
4. Through a Notice of Motion dated 30<sup>th</sup> April 2025, the Applicant seeks review or at least a lenient sentence. He mitigates that he was a first offender and incarceration affected his youthful life and that he is remorseful.
5. Article 165(6) (7) of the [Constitution](#) provides that;
  - (6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.
  - (7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6) and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.



6. Section 362 of the *Criminal Procedure Code* provides that;

The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.

7. The supervisory jurisdiction of the High Court enables it to maintain the integrity of the legal system and ensures proceedings and/or orders made by the Lower Court are legal, proper, procedural and rational.

8. Section 20(1) of the *Sexual Offences Act* provides thus:

(1) Any male person who commits an indecent act or an act which causes penetration with a female person who is to his knowledge his daughter, granddaughter, sister, mother, niece, aunt or grandmother is guilty of an offence termed incest and is liable to imprisonment for a term of not less than ten years:

Provided that, if it is alleged in the information or charge and proved that the female person is under the age of eighteen years, the accused person shall be liable to imprisonment for life and it shall be immaterial that the act which causes penetration or the indecent act was obtained with the consent of the female person.

9. In *Ogola s/o Owour v Republic* [1954] it was held that;

“The Court does not alter a sentence unless the trial Judge has acted upon wrong principles or overlooked some material factors”. To this, we would add a third criterion namely, “that the sentence is manifestly excessive in view of the circumstances of the case (*R - v- Shersbousky* (1912) CCA 28TLR 263).” See also *Omuse - v- R* (supra) while in the case of *Shadrack Kipkoech Kogo - vs - R.*, Eldoret Criminal Appeal No.253 of 2003 the Court of Appeal stated thus:-

sentence is essentially an exercise of discretion by the trial court and for this court to interfere it must be shown that in passing the sentence, the sentencing court took into account an irrelevant factor or that a wrong principle was applied or that short of these, the sentence itself is so excessive and therefore an error of principle must be interfered (see also *Sayeka - vs- R.* (1989 KLR 306)”

10. This court notes that the sentence meted out was the minimum mandatory provided sentence hence the court exercised its discretion conscientiously based on legal principles which did not undermine the dignity of the Applicant. In the result, the court cannot interfere with the discretion of the trial court.

11. The upshot is that the application lacks merit. Accordingly, it is dismissed.

12. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 1<sup>ST</sup> DAY OF OCTOBER, 2025.**

.....  
**L.N. MUTENDE**

**JUDGE**

