



**Dhadho v Republic (Criminal Miscellaneous Application
E192 of 2024) [2025] KEHC 14406 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14406 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL MISCELLANEOUS APPLICATION E192 OF 2024**

**WM KAGENDO., J
OCTOBER 9, 2025**

BETWEEN

MOHAMED RAMADHAN DHADHO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant pleaded guilty to the charge of defilement. The complainant was his stepdaughter. He was convicted and sentenced upon his plea to a term of imprisonment. He appealed, and the High Court upheld the sentence. He now seeks a second opportunity before this Court by way of review.
2. One of the grounds raised is that he is 60 years old. But what kind of 60-year-old father defiles a 15-year-old child? He claims not to know what possessed him. I find that whatever demon it was, it was so vile that it ought to be kept away from normal members of society.
3. In fact, the applicant is fortunate he was charged with defilement. He ought to have faced a charge of incest, of his half daughter under section 22 of the *sexual offences act*, which would have seen him behind bars for the rest of his life.
4. The applicant appealed against the sentence, and the appeal was dismissed. The issue of sentence has therefore been dealt with exhaustively. This Court does not have jurisdiction to further review the sentence. The applicant seeks to have this Court sit on appeal over a decision made by a court of concurrent jurisdiction. This application is an abuse of the court process and should not be allowed.
5. In the case of *Daniel Otieno Oracha v Republic* [2019] eKLR, Aburili J held as follows on the issue of jurisdiction and abuse of court process:
6. “The court’s jurisdiction is derived from various statutes and Article 165 of *the Constitution*. In *Samuel Kamau Macharia & Another v KCB & 2 Others* App. No. 2 of 2011, the Supreme Court of Kenya



made it clear that a court cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law; and that a court cannot expand its jurisdiction through judicial craft.”

7. The judgment of Abida Ali-Aroni J was made in accordance with the law and has not been challenged. This Court cannot sit on appeal over its own judgment or that of a court of concurrent competent jurisdiction, especially when the petitioner had the opportunity to ventilate his grievance before the Court of Appeal—even if it was to challenge the sentence alone.

“Good governance demands that cases be handled procedurally in the right forum. This is because the rule of thumb is that superior courts cannot sit in review or appeal over decisions of their peers of equal and competent jurisdiction, much less those courts higher than themselves. Matters falling under the exclusive jurisdiction of the Supreme Court under Article 163(3) cannot be dealt with by the High Court.”

1. I looked at the sentence review report. Even though it is positive, I have not seen anything that would persuade me, even on humanitarian grounds, to revisit the sentence.
2. The application is hereby dismissed. The applicant shall continue to serve his sentence.

DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE VIA MS TEAMS ON THIS 9TH DAY OF OCTOBER 2025.

HON. LADY JUSTICE W. K. MICHENI JUDGE

In the presence of:

The Applicant in Person Mr. Ngiri for the State

MA Beboru – Court Assistant

