



**Musuni v Republic (Criminal Case E010 of 2024)
[2025] KEHC 14480 (KLR) (8 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14480 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CRIMINAL CASE E010 OF 2024
TM MATHEKA, J
OCTOBER 8, 2025**

BETWEEN

KYALO MUSUNI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

- 1. The applicant was charged with committing an indecent act with a child contrary to section 11(1) of the Sexual Offences Act No. 3 of 2006.

Particulars are that on diverse dates between 27th December, 2018 and 24th February, 2019 at Machinery area in Kibwezi Subcounty within Makueni County, intentionally and unlawfully caused his male organ namely penis to touch the vagina of SMM a child aged 17 years.

- 2. After a full trial he was found guilty convicted and sentenced to 9 years imprisonment.
- 3. He filed Notice of Motion on 22/2/2024 on the grounds
He was sentenced to serve 9(nine) years on date 7/2/2024.
He was a first offender
He spent 4 years 11 months and 17 days In lawful custody (remand)
He humbly requests this honourable court to start his sentence form the date of arrest(section 333(2) of the PC, date of arrest 19/2/2019.
- 4. The application is supported by his affidavit sworn on 13/2/2024 where he depones
 - 1. That, I am an adult Kenyan Citizen with a sound mind and competent to make an oath.



2. That I am the accused person at Makindu Law Court on defilement
 3. That I wish to be present in court in person on the hearing of this petition.
 4. That I humbly pray for leniency in decision making by this honourable court.
 5. That all the facts given herein are true to the best of my knowledge and understanding.
5. I have looked at the record of the subordinate court. In the sentence meted on 7/2/2024 the trial court states;
- “I have considered the period the accused has spent in remand vis a vis the period provided in statute. The accused is sentenced to 9 years prison.”
6. Clearly the court considered the period spent in custody and applied Section 333(2) of the *Criminal Procedure Code* during sentencing.
 7. The application is without merit and is declined.

DATED, SIGNED AND DELIVERED THIS 8TH OCTOBER 2025

MUMBUA T MATHEKA

JUDGE

Applicant Present

CA Chrispol

Mr. Kazungu for state

