



REPUBLIC OF KENYA



KENYA LAW
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**Muturi v Republic (Criminal Revision E056 of 2025)
[2025] KEHC 13582 (KLR) (1 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13582 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL REVISION E056 OF 2025
SM MOHOCHI, J
OCTOBER 1, 2025**

BETWEEN

ERIC MUTURI ALIAS “MADEFU” APPLICANT

AND

REPUBLIC PROSECUTION

RULING

1. Applicant was on the 9th October 2023 charged together with another, with the offence of murder contrary to Section 203 as read together with Section 204 of the *Penal Code* both accused persons subsequently entered a plea bargain agreement dated 29th July 2024 and changed their individual plea from “not guilty” to “guilty” and were convicted for the offence of manslaughter contrary to contrary to section 202 as read with section 205 of the *Penal Code*.
2. Following the self-plea the court proceeded to sentence the Applicant to an imprisonment of fifteen (15) years and it is the sentence that has prompted this Application or Criminal Review.
3. The Application essentially urges the court to review the sentence owing to the changed circumstance of the Applicant who now contends to be a born-again Christian, and that he is now transformed and that the sentence is too harsh.
4. The Applicant urges the reliance of the case of *Benard Kipkemoi Siele* Appeal No. 4 of 2015, the citation does not disclose the court and no copy was availed.
5. The application is opposed by the state on only one ground that the court lacks jurisdiction to entertain the Application.



Analysis and determination

6. Sentencing is a discretion of the trial court. In *Bernard Kimani Gacheru v Republic* (2002) eKLR, the Court of Appeal stated that:-

“It is now settled law, following several authorities by this court and by the High Court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor or took into account some wrong material, or acted on a wrong principle. Even if, the appellate court feels that the sentence is heavy and that the appellate court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already stated is shown to exist.

7. The exercise of this Court’s Revision jurisdiction is provided for under the provisions of Section 362 of the *Criminal Procedure Code* which gives the Court the power to call for and examine the record of any criminal proceedings before a subordinate court for purposes of satisfying itself as to the legality, the correctness or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of any subordinate court. Section 364 thereof provides that:

“(1) In the case of proceedings in the subordinate court the record of which has been called for or which otherwise comes to its knowledge the High Court may –

- a. In the case of a conviction exercise any of the powers conferred to the Court of Appeal by Sections 354, 357 and 358 and may enhanced the sentence.
- b. In the case of any other order other than an order of acquittal alter or reverse the order.”

8. From the above provision, it is clear that the revisionary jurisdiction of this Court is exercised over the subordinate courts and tribunals should only be invoked to determine the legality, correctness or propriety of the sentence given by the court on the Applicant’s application. In order to exercise that power, the court must be satisfied that the trial court acted upon wrong principles or failed to consider some fundamental principles. The jurisdiction of this court on Revision over the subordinate courts is supervisory.

9. This court does not have jurisdiction to review its own decision or sentence.

10. Article 165(6) of the *Constitution* entrenches the jurisdiction of this Court which is exercised by way of revision over the subordinate courts. It states:

“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.”

11. In the instant application, the Applicant is seeking the review of his sentence on account that he is regretful, remorseful and has since rehabilitated. The Applicant did not appeal against his sentence. The present application appears to be an appeal in the guise of a revision. The Applicant ought to



have lodged an appeal against the decision of this court if he was dissatisfied with the same. Even if the Court had jurisdiction to entertain the application which, as I have stated is not clothed with that jurisdiction, the Court may not entertain an application for a revision of a finding, sentence or order if the Applicant did not file an appeal.

12. In this matter the case was determined by means of a plea bargain agreement. The Applicant agreed that the Court had discretion to impose any sentence as provided by the law. This Court complied with Section 216 of the *Criminal Procedure Code*, received and considered his mitigation and the sentence of 15 years' was to run from the 20th September 2023, being the date when the Applicant was arrested and placed in custody. With that, the Court exercised its discretion. The application for the review of the sentence is therefore not properly before this court.
13. In the end I order that the Applicant's application dated 8th March 2025 lacks merits and is thus dismissed.

It is so ordered accordingly.

DATED, SIGNED AND DELIVERED AT NAKURU ON THIS DAY OF 1ST DAY OF OCTOBER, 2025.

S. MOHOCHI
JUDGE

