

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**MISC. CRIMINAL APPLICATION NO. E234 OF 2024**

**JOHN NDIRANGU RITHA .....**  
**APPLICANT**

**VERSUS**

**REPUBLIC.....RESPOND**  
**ENT**

**RULING**

1. Upon further perusal of this file, I have noted a long history of the matter which must be brought out clearly.
2. John Ndirangu Ritha the applicant was convicted of the offence of robbery with violence contrary to section 296(2) of the penal code on 25<sup>th</sup> February, 2014 and sentenced to death. This was in Naivasha Chief Magistrate's Criminal Case No. 1356 of 2012.
3. He challenged the Judgment and sentence vide Nakuru High Court Criminal Appeal No. 60 of 2014. The same was heard and dismissed by a two (2) Judge bench comprised of:
  - Maureen Odero - Judge
  - Anthony Ndungu - JudgeThis was in March, 2016. (the day is not indicated)

4. The applicant then filed High Court Criminal Misc. Application No. 14 of 2019 seeking to have the death sentence reviewed. Joel Ngugi J (as he then was) in line with the **1<sup>st</sup> Muruatetu Case [2017] eKLR** by the Supreme Court directed and transferred the matter to Nakuru Chief Magistrate's Court for sentence re-hearing. This was on 20<sup>th</sup> April, 2020.
5. A re-sentencing file - Nakuru C.M's Criminal Misc. Case No. 129 of 2020 was opened on 8<sup>th</sup> June, 2020 without the Naivasha C.M's Criminal case No. 1356/2012 being availed. It was mentioned severally when the former Principal Magistrate Mr. Orange referred the matter to the High Court on 15<sup>th</sup> July, 2021 without acting on the orders by Justice Ngugi. No action was taken thereafter as the file was never taken back to the High Court.
6. After waiting for too long the applicant decided to file the present Nakuru High Court Criminal Misc. No. E234/2024.
7. "**Muruatetu 2**" is the Supreme Court of Kenya case **of Francis Karioko Muruatetu & another V Republic** whose decision was rendered in 2021. It issued a clarification that **Muruatetu 1** only declared unconstitutional the death sentence in murder cases. This, the court said, did not affect the death sentences in other cases.
8. This being the position it means that the orders of 20<sup>th</sup> April, 2020 were overtaken by events and the file - Nakuru High Court Misc. Criminal application No. 14/2019 is hereby closed.
9. It follows that the re-sentencing file C.M Nakuru Criminal Misc. No. 129/2020 was unprocedurally opened. Any re-sentencing (if any)

ought to have been conducted in the original file Naivasha Chief Magistrate's Criminal Case No. 1356/2012 which was never done. Despite several calls for the said file to be availed, nothing has been done to date I therefore equally declare the said file closed.

10. The remaining file is now Nakuru High Court Criminal Misc No. E234/2024 which is pending. Bearing in mind that the decision the subject of this application was issued by the Naivasha C. M's Court and in whose custody the said file is, I find that the court with jurisdiction to deal with this Misc. Application is Naivasha High Court.

11. The following orders shall therefore issue:

- (i) Nakuru High Court Misc. Criminal Application No. 14 of 2019 is closed.
- (ii) Nakuru C.M's Court re-sentencing No. 129 of 2020 is closed.
- (iii) Nakuru High Court Criminal Misc. Application No. E234/2024 is hereby transferred to Naivasha High Court for hearing and determination.

12. The file to be placed before the Presiding Judge, Lady Justice Grace Nzioka for directions.

13. Orders accordingly

**Delivered, dated and signed this 8<sup>th</sup> day of October, 2025  
in open court at Nakuru.**

**H. I. ONG'UDI  
JUDGE**