



Yeta v Republic (Criminal Revision E007 & E004 of 2024 & Miscellaneous Criminal Application E016 of 2024 (Consolidated)) [2025] KEHC 14727 (KLR) (16 October 2025) (Ruling)

Neutral citation: [2025] KEHC 14727 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CRIMINAL REVISION E007 & E004 OF 2024 & MISCELLANEOUS
CRIMINAL APPLICATION E016 OF 2024 (CONSOLIDATED)**

**CW MEOLI, J
OCTOBER 16, 2025**

BETWEEN

JACKSON YETA APPLICANT

AND

REPUBLIC RESPONDENT

(From Original Conviction and Sentence in Ngong CM’s Criminal Case No. S.O. 17 Of 2018)

RULING

1. The Applicant herein, Jackson Yeta was tried, convicted and sentenced in Ngong CM’s Cr. Case No. S. O. 17 of 2018 for the offence of Defilement contrary to Section 8 (1) as read with Section 8 (4) of the *Sexual Offences Act*.
2. Misc. Cr. Application No. E016/2024; HCCRev E004/2024; and HCCRev. E007/2024 all filed by the Applicant arise from the same case, namely Ngong CM’s Cr. Case No. S.O.17 of 2018 Republic versus Jackson Yeta (hereafter the lower court file). The three files before this court bear replica applications and were consolidated under HCCREV. No. E007 Of 2024 as they were all brought under Section 333 (2) of the Criminal Procedure Code. Seeking that:
 - i. Time spent in remand custody be factored into the sentence awarded.
 - ii. The balance of Applicant’s remaining prison term be substituted with a non-custodial sentence.



3. I have called for and perused the lower court file. The record shows that while sentencing the Applicant on 02.10.2023, the trial court stated in its notes on sentence that:

“I have considered the circumstance of the case and find the minor herein was a vulnerable child who had differed with her step mother and escaped from home and found refuge into the accused home, also a friend of his father and also a pastor. Instead of taking good care of her the accused took advantage of her and in the absence of his wife who they had separated turned her to be his wife and defiled her for a whole month. He is a 1st offender, I have considered his mitigation. I also consider the rate at which defilement cases have gone up and how young girls have been mistreated by adult men like the accused person here. He does not merit any leniency the law under Section 8 (4) of the *sexual offences act* provides for a minimum mandatory sentence of not less than 15 years once an accused is convicted.

I also consider the times he has spent in custody from 10.7.2018 to date (5 years) and sentence him to imprisonment for ten (10) years. Right of appeal 14 days explained.” (sic).

4. The trial court correctly observed that the minimum mandatory sentence in respect of the offence of Defilement contrary to Section 8(1) as read with Section 8 (4) of the *Sexual Offences Act* was 15years imprisonment.
5. Further, as mandated to do under Section 333 (2) of the Criminal Procedure Code, the trial court proceeded to deduct from the minimum mandatory sentence, the period of five years which the Applicant had spent in custody during the trial. And consequently, the trial court awarded the balance of 10 years imprisonment. Hence, the trial court having complied with the provisions of Section 333 (2) Criminal Procedure Code, the present application by the Applicant based on the same provision cannot be entertained by this court.
6. Moreover, the sentence imposed by the trial court is the lawful mandatory sentence for the offence for which the Applicant was convicted.
7. In the past decade, the decision of the Supreme Court in Francis Karioko Muruatetu and Others Versus Republic SC Petition No. 15 of 2015 (2017) eKLR (hereafter Muruatetu I) has been applied in many cases involving offences under the *Sexual Offences Act*. Including Christopher Ochieng Vs. Republic (2018) eKLR and Manyeso V. Republic CRA No. 12 of 2021 (2023) KECA 827 (KLR).
8. However, the Supreme Court has recently pronounced itself in Republic Vs. Mwangi and Others Petition No: E018 OF 2023 (2024) KESC 34 (KLR) as follows, regarding minimum sentences prescribed under Section 8 of the *Sexual Offences Act*:

“In any case, the sentence imposed by the trial court was lawful and remains lawful as long as Section 8 of the *Sexual Offences Act* remains valid. We reiterate that the Court of Appeal had no jurisdiction to interfere with the sentence.”

9. Further, in Republic Versus Evans Nyamari Ayako Petition No: E002 of 2024 the Supreme Court in its judgment delivered on 11th April 2024 stated that:

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“(51) In the instant case, the Court of Appeal in its judgment referred to the case of Manyeso Vs. Republic case where a different bench of the Court of Appeal cited the Muruatetu I case in stating that the rationale therein applied mutatis mutandis to the issue of mandatory indeterminate life sentence.



In Muruatetu II Case, we reiterated that the rationale in the Muruatetu I Case was only applicable to the mandatory death penalty for the offence of murder under Section 203 as read with 204 of the Penal Code. Further, we disabused the notion that the rationale could be applied as is to other offences with a mandatory or minimum sentence.” (Emphasis added).

10. In the circumstances, as explained in Muruatetu II case above, the decision in the Muruatetu I case cannot be applied in sentencing an offender convicted under Section 8 of the *Sexual Offences Act*, and this court, like the Court of Appeal in Mwangi’s case above, has no jurisdiction either to alter the prescribed penalty, or to substitute the balance of the imprisonment term with a non-custodial sentence, as herein sought by the Applicant. Accordingly, the application seeking review of the sentence fails and is hereby dismissed.
11. The court directs that this ruling be uploaded on the CTS and copies thereof be transmitted to the Applicant, and placed on the lower court file. And further that, the three files before this court be closed.

DELIVERED AND SIGNED IN CHAMBERS AT KAJIADO ON THIS 16TH DAY OF OCTOBER 2025.

**C. MEOLI
JUDGE**

