



**Kirema v Director of Public Prosecution (Petition E030 of 2023)
[2025] KEHC 14773 (KLR) (15 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14773 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
PETITION E030 OF 2023**

SM GITHINJI, J

OCTOBER 15, 2025

**IN THE MATTER OF: ENFORCEMENT OF RIGHTS OR FUNDAMENTAL
FREEDOM UNDER ARTICLES 2(5) (6), 3, 19(3),22,23 (1)(3),26,27(1)(2)
(4)28,29(D)(F), 50 (2) (P), AND 160 (1) OF THE CONSTITUTION OF KENYA
AND ALL OTHER ENABLING POWERS AND PROVISIONS OF THE LAW**

AND

**IN THE MATTER OF: SECTION 216 AND SECTION
329 OF THE CRIMINAL PROCEDURE CODE**

AND

IN THE MATTER OF: SECTION 296(2) OF THE PENAL CODE

AND

**IN THE MATTER OF: THE SENTENCING POLICY
GUIDELINES IN THE REPUBLIC OF KENYA**

BETWEEN

NTARANGWI KIREMA PETITIONER

AND

DIRECTOR OF PUBLIC PROSECUTION RESPONDENT

JUDGMENT

1. The Petitioner herein, one Ntaragwi Kirema, was charged in the Lower Court with the offence of robbery with violence, Contrary to Section 296 (2) of the Penal Code.
2. According to him, he was convicted of the offence and sentenced to the Mandatory death sentence. He filed an appeal to the High Court and the same was dismissed.



3. He has filed a Petition before this court challenging the constitutionality of the Mandatory death sentence.
4. I have however noted that the Petitioner did not make full disclosure in the Petition. He moved to the Court of Appeal vide COA CRA/17/2017 of which was heard and is now awaiting judgment on 5th December, 2025 as per the records in our system.
5. By the Petitioner having both this Petition and an appeal at the Court of Appeal, it amounts to duplication which can lead to conflict of decisions in Superior Courts and needs be discharged. He should have withdrawn one in favour of the other.
6. He has a judgment date in the Court of Appeal on 5/12/2015. He should wait for the outcome and proceed on the next cause of action, if need be.
7. Otherwise, when this court determined on his appeal, it became functus officio. On the foregoing grounds, the Petition is in want of merit and is hereby dismissed.

DATED AND DELIVERED AT MERU THIS 15TH OCTOBER, 2025

S.M. GITHINJI

JUDGE

Appearance:-

Petitioner present in Meru prison.

Ms. Adhi for the state.

