



**Mwalya v Republic (Criminal Miscellaneous Application
E035 of 2024) [2025] KEHC 15341 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15341 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CRIMINAL MISCELLANEOUS APPLICATION E035 OF 2024**

TM MATHEKA, J

OCTOBER 9, 2025

BETWEEN

MUTHOKA MWALYA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with defilement contrary to section 8(1) as read with section 8(1) as read with section 8(4) of the *Sexual Offences Act*.
He was tried, found guilty, convicted and sentenced to 20 years imprisonment.
2. This was in Tawa SRMCR 322/2013.
3. The applicant has not disclosed the outcome of that appeal in his affidavit.
4. The applicant seeks the application of section 333(2) of the Criminal Procedure Code to this sentence stating that he was arrested on 9/12/2013 and remained in remand custody till the date of sentence and conviction.
5. The applicant in oral submissions states that the appeal was dismissed, sentence was upheld.
6. In that event this application is untenable and is declined.

DATED, SIGNED AND DELIVERED ON 9TH OCTOBER 2025

MUMBUA T MATHEKA

JUDGE

Court assistant: Chrispol

Applicant present



Kazungu for state

