



**Machete v Republic (Criminal Miscellaneous Application E071 of 2025)
[2025] KEHC 16787 (KLR) (13 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16787 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL MISCELLANEOUS APPLICATION E071 OF 2025
WM KAGENDO., J
NOVEMBER 13, 2025**

BETWEEN

SOSPETER AMBOKA MACHETE APPLICANT

AND

THE REPUBLIC RESPONDENT

(Arising from CM Shanzu Criminal Case No. SO E094 of 2021)

RULING

1. The Applicant herein seeks a revision of the sentence imposed in Criminal Case No. SO.E094 of 2021 for the offence of defilement contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act* No. 3 of 2006, before the Chief Magistrate's Court at Shanzu, in which he was sentenced imprisonment for 20 Years.
2. The Applicant then lodged an appeal before Justice Ogola, who reduced the sentence to 10 years imprisonment.
4. The Applicant confirms that he has no further intention to appeal and has no pending appeal before any court. He therefore seeks a review of sentence.
5. The Applicant relies on Article 50(2)(p) of *the Constitution* of Kenya, 2010, which guarantees the right to benefit from the least severe sentence applicable, including the right to seek review where appropriate.
6. The Court further is guided by the Supreme Court's jurisprudence, including *Republic v Joshua Gichuki Mwangi* (Petition E018 of 2023), which reaffirmed the constitutionality and continued operation of mandatory minimum sentences in sexual offences. The Supreme Court also highlighted the legislative importance of minimum sentences and the need for consistency in their application.



4. The Court further observes that a court cannot review or vary a sentence imposed by another court of concurrent and equal jurisdiction. A review mechanism cannot be used to reopen, disturb, or alter a sentence already affirmed on appeal within the judicial hierarchy.

11. In view of the foregoing, the application for sentence review has no legal merit and cannot succeed.

I however note that the applicant states that he has under 3 years to go. He may be considered for decongestion in December 2025

Orders

1. That the Application for sentence review be and is hereby dismissed.
2. That the sentence of Ten (10) years imposed by Justice Ogola shall remain in force.
3. That the Applicant retains the right to pursue any lawful remedy available under *the Constitution* and applicable statutes

DATED SIGNED AND DELIVERED THIS 13TH DAY OF NOVEMBER 2025 WENDY KAGENDO

JUDGE

HIGH COURT OF KENYA MOMBASA

In the Presence of;

The Applicant in person

Mr Ngiri for the State

Ms Bebor Court Assistant

Signed by/for:

HON. LADY JUSTICE WENDY MICHENI

