



**Momanyi v Republic (Miscellaneous Criminal Revision E075 of 2025)
[2025] KEHC 15938 (KLR) (Crim) (3 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 15938 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL**

MISCELLANEOUS CRIMINAL REVISION E075 OF 2025

AM MUTETI, J

NOVEMBER 3, 2025

**IN THE MATTER OF ENFORCEMENT OF THE BILL OF RIGHTS UNDER
ARTICLE 22 (1) OF THE CONSTITUTION OF THE REPUBLIC OF KENYA**

AND

**IN THE MATTER OF ALLEGED CONTRAVENTION OF ARTICLE 25(C) 27 (1), 50 (1) (B) (C),
& 165 (3) (A), (B) & (D) (I) & (II) OF THE CONSTITUTION OF THE REPUBLIC OF KENYA**

AND

IN THE MATTER OF SECTIONS 362 AND 364 OF THE CRIMINAL PROCEDURE CODE

AND

IN THE MATTER OF CHIEF JUSTICE DIRECTIVES DATED 7TH DECEMBER 2022

AND

IN THE MATTER OF CRIMINAL CASE NO. SO 13 OF 2018 AT MILIMANI LAW COURT

BETWEEN

JAMES NYAKUNDI MOMANYI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of defilement under Section 8 (1) as read with 8(2) of the *Sexual Offences Act*.
2. He was convicted and sentenced to serve 15 years imprisonment.



3. The victim of the offence was aged 10 years and he now wants this court to review his sentence and consider him for a non- custodial sentence.
4. The applicant was sentenced on 7th May 2021 by the CM's court Milimani and he contends that he is left with less than 3 years to complete his sentence.
5. The state is opposed to the application. Mr. Omondi submitted that the sentence imposed on the applicant is lawful and should not be disturbed.
6. The record shows that the applicant was before the Honorable Justice Bahati Mwamuye on 6th May 2025 and the Judge addressed the issue of sentence comprehensively.
7. I have noted that the Judge gave the applicant the credit for the period spent in custody before sentencing.
8. This court therefore lacks the jurisdiction to review the Judgment of Mwamuye, J. Articles 162 and 165 of *the Constitution* must be respected and upheld to avoid creating jurisprudential chaos in our justice system. The applicant is simply out to vex this court yet he has had his day in court.
9. The practice of filing multiple applications by the same applicants must be stopped and it is time the Registrar Automation in the judiciary devises a method of detecting these applications at the filing stage so that the such matters can be sieved at the earliest opportunity, brought before a judge for summary determination to avoid engaging the courts endlessly in hearing similar matters.
10. The courts are inundated with applications of this nature countrywide and an innovative technique of must be devised to arrest the situation otherwise precious judicial time will continue being spent on this kind of matters greatly prejudicing other deserving litigants in the que.
11. Accordingly, the application by the accused fails and is hereby struck out.
12. It would help the applicant if he took time to study the latest jurisprudence from the Supreme Court on the issue of sentencing in Sexual offences cases.
13. Let the welfare officers of the prison avail to the applicant a copy of the decision of the Supreme Court in Petition No. E018 of 2023 Republic Vs. Joshua Gichuki Mwangi.
14. The applicant should count himself lucky that the Judge who heard his appeal did not take the route of the Supreme Court did in Petition Number E018 of 2023 and substitute the sentence for life imprisonment. This court would have done so if it were not for want of jurisdiction to review the decision of my learned brother Justice B. Mwamuye. The applicant must forever thank my brother judge for his magnanimity.
15. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 3RD DAY OF NOVEMBER 2025.

A. M. MUTETI

JUDGE

In the presence of:

Habiba: Court Assistant

Applicant present from Kitengela Prison



Ms Ogega for the Respondent

