



REPUBLIC OF KENYA



KENYA LAW
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**Mwangi v Republic (Criminal Revision E138 of 2024)
[2025] KEHC 17473 (KLR) (27 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17473 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL REVISION E138 OF 2024
CW GITHUA, J
NOVEMBER 27, 2025**

BETWEEN

JASAN MACHARIA MWANGI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, Jasan Macharia Mwangi filed an undated Notice of Motion in which he sought review of the sentence imposed on him by the lower court in Kangema S/O Case No.26 of 2017 which was upheld by this court (Wakiaga J) in HCCRA No.55 of 2019.
2. The applicant deposed in his supporting affidavit that following his conviction for the offence of defilement Contrary to Section 8(1) as read with Section 8(3) of the *Sexual Offences Act*, he was sentenced to the minimum mandatory sentence of life imprisonment; that his appeal to the High Court against his conviction and sentence being HCRA No.55 of 2019 was dismissed in its entirety.
3. He now seeks review of the sentence that was upheld by this court on grounds that he was a first offender; that he was now reformed and fully rehabilitated having undergone several training programmes in prison and acquired several skills as shown in the certificates attached to his supporting affidavit.
4. During the hearing, the applicant re-iterated the averments in his application and supporting affidavit and urged the court to revise the sentence upheld by the High Court and substitute it with a determinate sentence so that he could go back home and take care of his family.
5. The application was opposed by the respondent through the prosecution counsel Ms Manyal. Counsel invited the court to find that it lacked jurisdiction to hear and determine the instant application since the issue of the applicant's sentence had been finally determined by this court in the exercise of this



appellate jurisdiction; that a revision application cannot be used to act as a second appeal to this court; that once this court had confirmed the sentence, it became functus officio.

6. I have considered the application and the rival submissions made by the applicant in person and the prosecution counsel. I have also called for and perused the file in HCRA NO.55 of 2019 and the lower court record in Kangema S/O No. 26 of 2017.
7. My perusal of the lower court record reveals that the applicant was tried and convicted of the offence of incest Contrary to Section 20(1) of the Sexual Offences Act, and not the offence of defilement as stated in his application.

The record also confirms that he was sentenced to life imprisonment.

8. . The record in HCCRA NO. 55 of 2019 confirms that the appeal related to the applicant's conviction and sentence in S/O No.26 of 2017. This aligns with the averments of the applicant in his application and supporting affidavit. The record also confirms that the appeal was determined by Wakiaga J on 14th December 2022 and the same was dismissed in its entirety. In effect therefore, the court upheld the sentence imposed by the trial court.
9. In the instant application, the applicant requests this court to revise the sentence that was upheld by this court in HCRA No.55 of 2019. It is trite as can be ascertained from Section 362 of the Criminal Procedure Code (CPC) that the revisional jurisdiction of this court can only be exercised over decisions, orders or sentences passed by subordinate courts and not superior courts.
10. . To buttress this point, the Constitution of Kenya under Article 165(6) leaves no doubt that this court's supervisory jurisdiction which includes its revisional jurisdiction can only be exercised over any person, subordinate courts or body or authority exercising a judicial or quasi-judicial function but not over a superior court which includes the High Court.
11. Given the foregoing, I am in full agreement with the submissions made by the learned prosecution counsel that this court lacks jurisdiction to hear and determine the instant application considering that the sentence sought to be revised was upheld by this court in the exercise of its appellate jurisdiction. Once the court pronounced itself on the sentence imposed on the applicant, it was barred from revisiting it since it became functus officio
12. What the applicant was basically asking this court to do was to sit on appeal over a decision made by Wakiaga J when determining his appeal against sentence. Since the applicant was obviously aggrieved by Hon. Wakiaga J's decision, he should have filed a second appeal to the Court of Appeal instead of filing the instant application.
13. For all the above reasons, I am satisfied that the instant application is incompetent for want of jurisdiction and it is hereby struck out.

This file is now ordered closed.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANGA THIS 27TH DAY OF NOVEMBER 2025.

HON. C. W. GITHUA

JUDGE

11.2025

