



**Mwangi v Republic (Criminal Revision E264 of 2024)
[2025] KEHC 17730 (KLR) (27 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17730 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL REVISION E264 OF 2024
TW OUYA, J
NOVEMBER 27, 2025**

BETWEEN

JOSEPH CHEGE MWANGI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. By an application dated 10th July 2024, the applicant has moved this honourable court seeking resentencing pursuant to article 50(2) (p) (q) of *the Constitution*.
2. The application was supported by grounds on the face of the application and the affidavit of Joseph Chege Mwangi on grounds that the applicant had been charged with the offence of defilement contrary to Section 8 (1) as read with 8 (4) of the *Sexual Offences Act* and sentenced to fifteen (15) years imprisonment. Aggrieved and dissatisfied with the decision of the trial court, the applicant appealed to the High Court of Kenya at Murang'a vide HCCRA No. E093 of 2023 which was dismissed by Hon. Justice Githua.
3. The applicant further deponed that he is remorseful and has been reformed and rehabilitated and therefore ought to benefit from the least severe sentence pursuant to *the constitution* and on the court's discretion.
4. The Respondent opposed the application on grounds that the Respondent had already exhausted the avenue for sentencing before a court of competent and concurrent jurisdiction. Therefore, this honourable court lacked the jurisdiction to entertain the instant application.
5. The main issue that commends itself for determination is whether this court has jurisdiction to determine the instant Application.
6. The High Court's power of revision is set out in Article 165 (6) and (7) which provides:



- (6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but over a superior court.
- (7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.
7. A perusal of the pleadings herein shows that the legality of the Sentence meted against the Applicant has already been addressed by a court of competent jurisdiction. As a general rule, the High Court can only review the Judgment of a subordinate court as provided for under sections 362 to 364 of the Criminal Procedure Code. This court therefore does not have the jurisdiction to review its own decision. In *John Kagunda Kariuki v Republic (2019) eKLR*, Ngugi J. (as he then was) held that:
- “In the present case, the Applicant’s appeal has already been heard by the High Court. He cannot return to the High Court for a review of the sentence imposed. He is at liberty to make an argument for reduced sentence at the Court of Appeal”.
8. In the persuasive decision of *Daniel Otieno Oracha v Republic (2019)eKLR*, the Petitioner had applied for review of a sentence imposed by a court of concurrent jurisdiction and Aburili J. held that:
- “The law abhors that practice of a judge sitting to review a judgment or decision of another judge of concurrent jurisdiction. Reduction of sentence could only be considered by the Court of Appeal or if this court was sitting on appeal of a judgment of the subordinate court or if the petitioner was seeking for resentence after exhausting appeal mechanisms and not otherwise.....
- The judgment of Abida Ali-Aroni J made in accordance with the law has not been challenged. This court cannot sit on appeal of its own judgment or of court of concurrent competent jurisdiction when the Petitioner had an opportunity to ventilate his grievance before the Court of Appeal even if it was to challenge sentence alone.
- Good governance demands that cases be handled procedurally in the right forum. This is because the rule of the thumb that superior courts cannot sit in review/appeal over decisions of their peers of equal and competent jurisdiction much less those courts higher than themselves and that matters falling under the exclusive jurisdiction of Supreme Court under Article 163(3) cannot be dealt with by the High Court.....”
9. This court, differently constituted, which is a court of concurrent jurisdiction has already upheld the Applicant’s sentence. Any further recourse that the Applicant has in regards to his sentence lies in the Court of Appeal and not in this court.
10. In the end, I find that this court has no jurisdiction to review the Judgement of Hon. Justice Githua and therefore the Application herein lacks merit and the same is dismissed.
11. The Application for review of sentence is hereby dismissed

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

HON. T. W. OUYA

JUDGE

For Applicant.....Joseph Chege Mwangi (Present at Naivasha Maximum Prison)

For Respondent.....Kagema for the state.



Court Assistant.....Brian

