



**Annastacia v Republic (Miscellaneous Criminal Application
E057 of 2025) [2025] KEHC 18503 (KLR) (11 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18503 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
MISCELLANEOUS CRIMINAL APPLICATION E057 OF 2025
FN MUCHEMI, J
DECEMBER 11, 2025**

BETWEEN

BENSON MANG'ONDU ANNASTACIA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

Brief Facts

1. This application dated 20th June 2025 seeks for orders of review of sentence based on the provisions of Section 329 of the *Criminal Procedure Code*.
2. The applicant was convicted by Thika Chief Magistrate in Criminal (S.O) *Case No. E061 of 2021* with the offence of defilement contrary to Section 8(1) as read with 8(3) of the *Sexual Offences Act* No. 3 of 2006 and was sentenced to serve twenty (20) years imprisonment. The applicant appealed to the current court *vide Criminal Appeal No. E068 of 2023* and the appeal was dismissed. The applicant states that he has not lodged an appeal to the Court of Appeal and does not intend to do so.
3. The applicant herein seeks for review on sentencing and asks the court to reduce his sentence further considering he is 27 years old, a first offender, remorseful and rehabilitated.

The Law

4. The applicant herein was convicted in Chief Magistrate Court in Thika in Criminal (SO) *Case No. E061 of 2021* with the offence of defilement contrary to Section 8(1) as read with 8(3) of the *Sexual Offences Act* No. 3 of 2006 and was sentenced to twenty (20) years imprisonment. The applicant appealed on to the current court *vide Criminal Appeal No. E068 of 2023* and the appeal was dismissed on 24th April 2025. Article 50 of the Constitution prohibits review where a convict has gone through an appeal process. It provides:-



- (2) Every accused person has the right to a fair trial, which includes the right:-
- (q) If convicted, to appeal to, or apply for review by a higher court as prescribed by law.
5. The applicant herein having filed an appeal in the current court has no legal basis of approaching this court for a review under Article 50(2) (q).
6. It is therefore, evident that this court has no power to review its own judgment which upheld the conviction and the sentence.
7. Furthermore, the Supreme Court in recent decisions have held that the sentence for the offence of defilement is the one provided under Section 8(1) and 8(2) of the Sexual Offences Act. In the Petition R v Julius Manyeso (Petition E013 of 2024) [2025] KESC 16 (KLR) (11 April 2025) (Judgment) the Supreme Court set aside the sentence of 40 years imprisonment reviewed by the Court of Appeal and substituted it with life imprisonment on grounds that Section 8 of the Act forms the basis of sentencing convicts in cases of defilement. Furthermore the Supreme Court in Republic v Mwangi; Initiative for Strategic Litigation in Africa (ISLA) & 3 Others (Amicus Curiae) (Petition E018 of 2023) [2024] KESC 34 (KLR) (12 July 2024) (Judgment) held that the sentence provided in Section 8 of the Sexual Offences Act remained lawful as long as the said provision remained valid.
8. It is trite that this court is bound by decisions of the Supreme Court under Article 163(7) of the Constitution.
9. As such, I find this application misconceived and incompetent and it is hereby struck out.

RULING DATED AND SIGNED AT THIKA THIS 11TH DAY OF DECEMBER 2025.

F. MUCHEMI

JUDGE

