



**Kosgei v Republic (Miscellaneous Criminal Application E016 of 2025)  
[2025] KEHC 18649 (KLR) (17 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18649 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
MISCELLANEOUS CRIMINAL APPLICATION E016 OF 2025  
JK NG'ARNG'AR, J  
DECEMBER 17, 2025**

**BETWEEN**

**GILBERT KOSGEI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant filed an undated Notice of Motion Application seeking a reduction of his sentence.

**The Applicant's case**

2. The Applicant stated that he was convicted for the offence of defilement contrary to section 8(1) as read with section 8(4) of the *Sexual Offences Act*. That he was sentenced to life imprisonment. The Applicant further stated that he appealed his conviction and sentence to the High Court in Nakuru vide Criminal Appeal Number 175 of 2016 and his Appeal was dismissed. He further stated that he lodged a second Appeal to Court of Appeal in Nakuru but has had no response to date.
3. It was the Applicant's case that the mandatory minimum sentence had been declared unconstitutional. It was the Applicant's further case that he was remorseful, had reconciled with the complainant's family, was a first offender and that he was now a law-abiding citizen.
4. The Application was opposed by the Respondent who stated that the Applicant's sentence had already been reduced.

**Analysis**

5. From the Applicant's admission, he was convicted and sentenced to life imprisonment by the trial court. The Applicant's Appeal Nakuru High Court Criminal Appeal Number 175 of 2016 was dismissed. This meant that the Applicant's conviction and sentence were upheld.



6. The High Court in Nakuru and this court are courts of concurrent status and asking this court to reduce the Applicant's sentence was akin to asking this court to sit on Appeal on a decision of a concurrent court. In *Elishipha Muthoni v Republic* [2022] KEHC 1410 (KLR) Chepkwony J. held: -

“The law abhors that practice of a Judge sitting to review a Judgment or decision of another Judge of concurrent jurisdiction. This is because the rule of the thumb is that courts cannot sit in review/appeal over decisions of their peers of equal and competent jurisdiction much less those courts of higher Jurisdiction than theirs.

The court which ought to deal with an issue arising out of the decision of this court is the Court of Appeal as it is the one with jurisdiction under Article 164(3) of *the Constitution* and Section 379(1) of the Criminal Procedure Code. This is in appreciating the provisions of Article 50(2) (q) of *the Constitution* of Kenya, 2010 which guarantees the right of a person if convicted, to appeal to, or apply for review by, a higher court as prescribed by the law.”

7. In the end, I find that this court has no jurisdiction to review the Applicant's sentence further. It is my further finding that the Application lacks merit and is hereby dismissed.

**RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 17<sup>TH</sup>**

**DAY OF DECEMBER, 2025.**

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**Hon. JULIUS K. NG'ARNG'AR**

**JUDGE**

Ruling delivered in the presence of:

Siele/Susan (Court Assistants).

N/A for the Applicant

Ms Koech for the Respondent

(Notice to issue to the Applicant and file is closed)

