



REPUBLIC OF KENYA



**Mureithi v Republic (Miscellaneous Criminal Application E004 of 2024)
[2025] KEHC 18647 (KLR) (16 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18647 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
MISCELLANEOUS CRIMINAL APPLICATION E004 OF 2024**

CW MEOLI, J

DECEMBER 16, 2025

(IN THE MATTER OF AN INTENDED APPEL)

BETWEEN

GEORGE MWANGI MUREITHI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. George Mwangi Mureithi, the Applicant herein, was tried by this court in Kajiado HCRC No. 38 of 2015 for the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars stated that on 30th July 2015 at Kandisi area Ongata Rongai Township within Kajiado county, he murdered Victor Gichuhi.
2. At the conclusion of the trial the court (Nyakundi J) found him guilty and convicted him vide the judgement delivered on 27th February 2017. On 29th March 2017, he was sentenced to suffer death in the manner authorized by law.
3. The Applicant subsequently filed an appeal to the Court of Appeal viz Criminal Appeal No. E122 of 2024 as deduced from the copy of the notice of appeal and memorandum of appeal filed in this court on 17.3.2023. While the appeal in the Court of Appeal was pending, the Applicant filed Misc. Criminal Application No. 42 of 2019 before this court. The application filed on 15.07.2019 sought resentencing. In a brief order, Mwitia J declined the application citing the unconcluded appeal to the Court of Appeal.
4. Undeterred, the Applicant filed yet another application dated 17.02.2021 vide Miscellaneous Criminal Application No. E046 of 2021 seeking resentencing. The application was heard and determined by Mutuku J who observed that the Applicant's appeal in the Court of Appeal had since been withdrawn. The application dated 17.02.2021 cited inter alia Section 333 (2) of the Criminal Procedure Code as



interpreted in the Court of Appeal decision in Ahmad Abolfathi Mohamed & Another in Criminal Appeal No. 135 of 2016.

5. In the ruling delivered on 30th June 2022 the court stated at Paragraph 21 that:-

“ Even though the applicant seeks to have the sentence reduced to time served in custody, this case is not suitable for such a sentence. In my considered view, the applicant ought to serve term in custody. I therefore allow this application and vary the sentence from death sentence to a prison term of 20 years imprisonment taking into account the term already served and the time spend in custody. For the avoidance of doubt, the death sentence imposed on the Applicant is hereby varied to 20 years imprisonment.”

6. The above notwithstanding, the Applications has yet again moved the court in Misc. Criminal Application No. E004/2024 seeking reduction of his sentence of 20 years, which he describes as “manifestly harsh and excessive”. Invoking Section 333(2) of the CPC and Section 26 of the Penal Code, he seeks inter alia that time spent in custody during trial be discounted from his sentence under Section 333 (2) of the Criminal Procedure Code, that his sentence be further reduced and that the remainder of his term be served on a non-custodial sentence.

7. The court has considered this latest application in the context of the pertinent history and the law. The ruling of Mutuku J speaks for itself. The court resented the Applicant having addressed itself to the material placed before it and specifically, with regard to the application of Section 333 (2) CPC to the matter. If the Applicant was dissatisfied with the new sentence, he ought to have filed an appeal to the Court of Appeal. This court is functus officio and cannot accept the invitation in the present application to revisit issues already considered by Mutuku J. The matters raised in the undated motion in Misc. Criminal Application No. E004 of 2024 being res judicata the said motion is hereby struck out.

8. This ruling to be uploaded on the CTS and served on the Applicant through Kamiti Medium Prison.

DELIVERED AND SIGNED ELECTRONICALLY AT KAJIADO ON THIS 16TH DAY OF DECEMBER 2025.

C. MEOLI

JUDGE

