



REPUBLIC OF KENYA



**Njeri v Republic (Criminal Appeal E011 of 2025)  
[2025] KEHC 18207 (KLR) (3 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18207 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIVASHA  
CRIMINAL APPEAL E011 OF 2025  
PJO OTIENO, J  
DECEMBER 3, 2025**

**BETWEEN**

**PAUL KIMANI NJERI ..... APPELLANT**

**AND**

**REPUBLIC ..... PROSECUTOR**

*(Being an Appeal Against the Ruling of the Hon. J. Ndengeri (PM), delivered on 7th May, 2025 at the Chief Magistrates Court in Naivasha, MCCRmisc No. E072 of 2024)*

**RULING**

1. By a judgment dated and delivered on the 6<sup>th</sup> February 2024, in Mombasa High Court, Constitutional and Human Rights Petition Number 5 of 2022, Shaban Salim Ramadhan and 8 Others Vs Republic, where the appellant herein was the 5<sup>th</sup> Petitioner, the court rendered itself in the rendition by stating:

“The petitioners be presented before the respective sentencing courts for sentence re-hearing upon appropriate applications being made in that regard in line with paragraphs 2.2.1, 2.2.2, 2.2.3 and 2.2.4 of the *Judiciary Sentencing Guidelines*.”

2. When the applicant was presented before the trial court, as the sentencing court, Hon. J. Ndengeri (PM), without hearing parties on mitigation, directed that submissions be filed. The parties apparently filed the submissions which the court after reading arrived at the ruling dated 7<sup>th</sup> May 2025.

In that ruling the court said;

“At this juncture, I find that re-opening the hearing shall amount to an academic exercise as I cannot define the number of years the Applicant’s sentence shall run, this is within the province of the legislature. Consequently, the sentence shall remain undisturbed.”



3. The court finds that the directions by the High Court in Mombasa Petition No. 5 of 2022 was not only clear but also binding upon the sentencing court.
4. The records presented in this appeal shows that no resentencing hearing was conducted to enable the appellant mitigate in the terms of the directions in of the Supreme Court in *Francis Karioko Muruatetu & Another vs Republic* (2017) eKLR.
5. That was an incorrect approach and non-compliance with the High Court judgment. Being incorrect it calls for revision. That position was conceded by the prosecutor who urged that the appeal be allowed so that the right thing be done by remitting the matter back to the trial court for purposes of the ordered sentence rehearing.
6. The court therefore revises the order of the court below by setting aside the order declining the application for resentencing and directs that the file be remitted to the Chief Magistrate, Naivasha Law Courts, for purposes of reassigning a Judicial Officer to conduct the resentence hearing.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIVASHA THIS 3<sup>RD</sup> DAY OF DECEMBER, 2025.**

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**PATRICK J O OTIENO**

**JUDGE**

In the presence of:

Mr. Wanga for the State.

Applicant in person.

Court Assistant – Ms. Hannah

