



**Monari v Director of Public Prosecutions (Criminal Miscellaneous Application
E013 of 2025) [2026] KEHC 717 (KLR) (21 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 717 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL MISCELLANEOUS APPLICATION E013 OF 2025**

**TW CHERERE, J
JANUARY 21, 2026**

BETWEEN

CHARLES MOMANYI MONARI APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

RULING

1. The Applicant, Charles Momanyi Monari, moved this Court by a Notice of Motion dated 11th March 2025, seeking that the sentence of 30 years imposed by the trial court be revised.
2. The record shows that following a full trial, the Applicant together with two others, was convicted of the offence of murder and sentenced to thirty (30) years' imprisonment on 31st Jul 2015 in Republic v Evans Nyakundi Monari & 2 others [2015] eKLR – Kisii Criminal Case 12 of 2012.
3. The Applicant appealed against both conviction and sentence, but the appeal was dismissed on 07th February, 2025 by the Court of Appeal in Monari & 2 others v Republic (Criminal Appeal 337 & 315 of 2019 (Consolidated)) [2025] KECA 204 (KLR) (7 February 2025) (Judgment) thereby affirming the sentence imposed by the High Court.
4. The Respondent opposed the application and raised a jurisdictional objection on the ground that this Court is functus officio, the conviction and sentence having been conclusively determined by the High Court and affirmed on appeal by the Court of Appeal.
5. I have considered the Notice of Motion, the supporting affidavit, and the nature of the reliefs sought. The application plainly invites this Court to reopen and vary a sentence that has already been confirmed by the Court of Appeal.
6. Once a final judgment has been rendered and affirmed on appeal, the doctrine of functus officio bars the court from re-engaging with the merits of that decision. Upon dismissal of the appeal, the judgment



of the High Court merged into that of the Court of Appeal, and this Court was divested of jurisdiction to revisit the sentence. The provisions relied upon by the Applicant, including section 333(2) of the Criminal Procedure Code, do not confer jurisdiction upon this Court to re-hear or reduce a sentence already affirmed on appeal.

7. In the circumstances, this Court finds that it lacks jurisdiction to entertain the application.
8. Accordingly, the Applicant's undated Notice of Motion is disallowed and is hereby dismissed for want of jurisdiction.

DELIVERED AT NYAMIRA THIS 21ST DAY OF JANUARY 2026

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Hilda

Applicant - Present

For the DPP - Mr. Chirchir (SADPP)

Top of Form

Bottom of Form

