



REPUBLIC OF KENYA



KENYA LAW
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**Waweru v Republic (Criminal Revision E006 of 2025)
[2026] KEHC 1103 (KLR) (29 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 1103 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CRIMINAL REVISION E006 OF 2025
FN MUCHEMI, J
JANUARY 29, 2026**

BETWEEN

GEORGE NGETHE WAWERU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

Brief Facts

1. The application for determination is undated whereas the applicant seeks for orders of review of sentence.
2. The applicant states that he was convicted by Gatundu Senior Principal Magistrate, in Criminal (S.O) Case No. 1 of 2016 with the offence of defilement contrary to Section 8(1) as read with 8(2) of the [Sexual Offences Act](#) No. 3 of 2006 and was sentenced to fifteen (15) imprisonment.
3. The applicant herein seeks orders of revision of sentence and urges the court to grant him a non custodial sentence for the time left in custody. The applicant further states that he is remorseful and seeks the court's leniency.
4. In opposition to the application, the respondent filed Grounds of Opposition dated 8th December 2025 and states that the applicant was charged with the offence of defilement contrary to Section 8(1) as read with 8(3) of the [Sexual Offences Act](#) at Gatundu Chief Magistrate's Court vide Criminal Case No. 1 of 2016 and after the trial he was found guilty and sentenced to fifteen (15) years imprisonment according to Section 8(4) of the Act which is constitutional and legal. The respondent further states that the victim was found to be 15 years and two months at the time of the commission of the offence.
5. The respondent argues that the offence which the applicant was found guilty is a felony which attracts a sentence of not less than 15 years imprisonment. Furthermore, the recent decisions by the Supreme



Court in Petition No. E002 of 2024 *Republic vs Evans Nyamari Ayako* and Petition No. E013 of 2024 *Republic vs Julius Kitsao Manyeso* have held that sentences for defilement cases under the *Sexual Offences Act* are legal and constitutional and that the trial court has no discretion to give any other sentence other than that which is provided for in the Act.

The Law

6. The applicant has come to this Honourable court by way of review provided for under Article 50 of the *Constitution*. 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.
7. The above provision prohibits review where a convict has gone through the appeal process arising from the same case. In the instant matter the applicant was convicted by Gatundu Senior Principal Magistrate, in Criminal (S.O) Case No. 1 of 2016 with the offence of defilement contrary to Section 8(1) as read with 8(4) of the *Sexual Offences Act* No. 3 of 2006 and was sentenced to fifteen years imprisonment. The applicant appealed in High Court in Kiambu vide Criminal Appeal No. 23 of 2018 which appeal was dismissed on 20th December 2018. The applicant thereafter applied for review of his sentence under Section 333(2) of the *Criminal Procedure Code* in Kiambu High Court vide Criminal Revision No. E338 of 2023 which application was dismissed on 23rd July 2024. It follows that the applicant having gone through an appeal and a review of sentence in the High Court Kiambu has no legal basis of approaching this court for a second or any review at all under Article 50(2) (q). It is therefore, evident that this court should not entertain this application for review following dismissal of the appeal by a court of concurrent jurisdiction which upheld the conviction and reduced the sentence downwards. It is notable that the review application was also dismissed by the High Court Kiambu.
8. Recently the Supreme Court of Kenya in several decisions has 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 vs 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 the sentence provided for the offence of defilement under Section 8 of the *Act* is the lawful sentence.
9. This court is bound by decisions of the Supreme Court under Article 163(7) of the *Constitution*. Consequently, I find this application misconceived and incompetent and it is hereby struck out.
10. It is hereby so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 29TH DAY OF JANUARY 2026.

F. MUCHEMI

JUDGE

