

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KIBERA**  
**MISC. CRIMINAL APPLICATION NO. E015 OF 2026**

IBRAHIM HASSAN KIROMO.....APPLICANT

VERSUS

REPUBLIC.....  
RESPONDENT

**RULING**

1. The applicant was charged before the trial court with the offence of defilement contrary to section 8(1) as read with section 8(3) of the Sexual Offences Act, No. 3 of 2006. Upon conclusion of the trial, the court made a special finding that he was guilty but insane and ordered that he be detained at the President's pleasure.
2. Vide an application dated 22<sup>nd</sup> January 2026 the applicant seeks review of that order in light of the decision in **Isaac Ndegwa Kimaru & 17 Others v Attorney General & Another**, wherein the High Court declared the statutory framework governing detention at the President's pleasure unconstitutional and directed that affected persons be presented before the committing courts for appropriate orders.
3. The applicant contends that his continued detention under sections 162 to 167 of the Criminal Procedure Code violates his constitutional rights, and that sentencing is a judicial function which cannot lawfully be exercised by the Executive. He further deposes that his pending appeal in Criminal Appeal No. 73 of 2018 has not been determined owing to delay in delivery of judgment.

4. I have considered the application, the record, and the applicable law. There is no dispute that this Court has jurisdiction to revisit orders committing persons to detention at the President's pleasure following the constitutional pronouncements made in the above petition. The question, however, is whether the circumstances of this case warrant the applicant's release or substitution of the detention order.
5. From the record, no current psychiatric or medical report has been availed to demonstrate that the applicant has regained mental stability or no longer poses a risk to himself or the public. In the absence of expert medical evidence, the Court cannot safely conclude that the condition which informed the special finding has abated.
6. Secondly, there is no evidence of a suitable family member, guardian, or other responsible person willing and able to assume supervision of the applicant if released. Indeed, the material before the Court indicates that the applicant has no known family or support structure. Where a person previously adjudged insane remains mentally incapacitated, supervised reintegration is a critical consideration.
7. Thirdly, the available information suggests that the applicant continues to exhibit the impulses and behavioural tendencies that precipitated the commission of the offence. The risk of reoffending is real and cannot be ignored.
8. The Court is therefore not persuaded that release, discharge, or substitution of the detention order would serve the interests of justice or public safety.
9. In the premises, the application is devoid of merit and is hereby dismissed.

Orders accordingly.

**Ruling dated and delivered virtually this 15<sup>th</sup> day of April  
2026**

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**D. KAVEDZA  
JUDGE**

**In the presence of:**

Applicant Present  
Mr. Mutuma for the Respondent  
Karimi Court Assistant.

ORIGINAL