



**Karanja v Republic (Criminal Miscellaneous Application
E103 of 2023) [2026] KEHC 4749 (KLR) (14 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 4749 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL MISCELLANEOUS APPLICATION E103 OF 2023**

PN GICHOHI, J

APRIL 14, 2026

BETWEEN

JOHN MAINA KARANJA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein, moved this Court vide an undated Application filed on 28th July, 2023, seeking in main for resentencing pursuant to the Holding In Julius Kitsao Manyeso Vs Republic-Criminal Application No. 12 of 2021.
2. The Application is based on the supporting Affidavit filed on the same date stating that he was charged with defilement under Section 8(1) and (2) of the *Sexual Offences Act* No. 3 of 2006 in Narok Criminal Case Number 42 of 2016. He was found guilty and sentenced to life imprisonment.
3. Dissatisfied with that decision, he appealed to the High Court at Narok, vide Criminal Appeal No. 136 of 2017, but his appeal was dismissed in its entirety. He further lodged an Appeal to the Court of Appeal at Nakuru through Criminal Appeal Number 54A of 2018 but the same was dismissed on 15th December, 2022.
4. The Applicant is now seeking a re-hearing of his sentence, arguing that this Court has jurisdiction to hear his re-sentence and met out appropriate and determinate sentence in line with the decisions in Manyeso v Republic (Criminal Appeal 12 of 2021) [2023] KECA 827 (KLR), which he argued ruled that life imprisonment was declared unconstitutional.
5. He argued that this lenient determinate sentence is guaranteed under Article 50(2)(p) and(q) of *the Constitution* of Kenya. He further urged this court to consider the time he spent in remand when calculating the determinate term in line with section 333(2) of the Criminal Procedure Code.



6. The Respondent opposes the application through a Replying Affidavit sworn on 29th November 2024 by James Kihara, Prosecution Counsel in the Office of the Director of Public Prosecutions. The Respondent confirms that the Applicant was charged with defilement, contrary to Section 8(1) as read with Section 8(2) of the *Sexual Offences Act*. Following a full trial, the Applicant was convicted and sentenced to life imprisonment.
7. The Applicant subsequently appealed the conviction and sentence to the High Court (Criminal Appeal No. 136 of 2018 at Narok), which was dismissed. A further appeal to the Court of Appeal was similarly unsuccessful. The Respondent contends that since the High Court and Court of Appeal have already delivered their verdicts, this Court lacks the jurisdiction to review decisions made by superior courts.
8. While acknowledging the precedent in *Julius Kitsao Manyeso v Republic*(Supra) regarding the constitutionality of mandatory life imprisonment, the Respondent maintains that this is not the appropriate forum for this application. Given that the Applicant has exhausted all available channels of appeal, the Respondent submits that this Court is functus officio and lacks the mandate to grant the orders sought.

Analysis and determination

9. Having considered the application alongside the affidavits filed in support and opposition, the central issue for determination is whether this Court possesses the jurisdiction to revisit and re-hear a sentence that has already been affirmed on appeal by a court of concurrent jurisdiction, and subsequently upheld by the Court of Appeal.
10. The Applicant contends that, following the declaration of life imprisonment as unconstitutional, this Court ought to substitute his current sentence with a more lenient one. He argues that such a substitution is necessary to align his sentence with current legal developments and to safeguard his constitutional rights under Articles 50 (2)(p) and (q) of *the Constitution*.
11. The Applicant has heavily relied on the Court of Appeal holding in *Manyeso v Republic* (Criminal Appeal 12 of 2021) [2023] KECA 827 (KLR). That decision of the Court of Appeal was subsequently appealed to the Supreme Court in *Republic v Manyeso* (Petition E013 of 2024) [2025] KESC 16 (KLR), where the Supreme Court held that the Court of Appeal erred in substituting the life imprisonment sentence with a 40-year sentence. The Court affirmed that legislative authority is vested in Parliament, which defines sentences, and the Courts' roles are confined to interpreting and adjudicating the constitutionality of a statute, not rectifying or amending it.
12. Further the Supreme Court in *Republic v Ayako* (Petition E002 of 2024) [2025] KESC 20 (KLR) held that the Court of Appeal acted ultra vires and usurped legislative powers by substituting a life imprisonment sentence with a 30-year term, as the constitutionality of life imprisonment had not been initially litigated at the High Court, which is the court of first instance for constitutional interpretation.
13. The Supreme Court has emphasised that defining sentencing parameters, including life imprisonment, is a prerogative of Parliament rather than the Judiciary. The Apex Court noted that any attempt by the Court of Appeal to unilaterally alter these parameters constitutes an arbitrary creation of law without the requisite legislative process or public participation. Consequently, the Supreme Court allowed the appeal, reinstated the High Court's judgment, and directed that the Respondent serve the life sentence originally imposed by the trial court.
14. In light of this Supreme Court precedent, it is evident that the Apex Court has consistently affirmed the constitutionality of mandatory life imprisonment in Kenya. Therefore, the indefinite nature of a



life sentence under Section 8(2) of the *Sexual Offences Act* cannot be judicially redefined to include a specific end date. Any such reform falls strictly within the domain of Parliament through legislative amendment.

15. His sentence and conviction by the trial court having been affirmed by both High Court and the Court of Appeal, and with the definitive pronouncement by the Supreme Court, the Applicant's prayer for resentencing is untenable.
16. Accordingly, the Applicant's prayer that any custodial sentence be reconsidered in light of Section 333(2) of the Criminal Procedure Code also fails. The Applicant has no further recourse in this forum.
17. Consequently, the Applicant's application dated 28th July 2023 is hereby dismissed.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 14TH DAY OF APRIL, 2026.

PATRICIA GICHOHI

JUDGE

In the presence of:

John Maina Karanja - Applicant

Ms Bosire for Respondent

Erickson- Court Assistant

