

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NYERI**

**CRIMINAL DIVISION**

**HIGH COURT MISCELLANEOUS CRIMINAL APPLICATION NO.**

**E072 OF 2025**

**MARY WANJIKU GITONGA .....**

**APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. The Applicant herein **MARY WANJIKU GITONGA** has filed a Constitutional Petition No. **E569/2024** seeking revision of her sentence.
2. The Applicant was convicted of the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code by the **High Court in Nyeri Criminal Case No. 8 of 2005** vide the judgment delivered on **20<sup>th</sup> July 2007** by **Hon. Lady Justice Okwengu** (*as she then was*). The trial court sentenced the Applicant to death.

3. The Applicant then lodged an appeal in the Court of Appeal being being **Criminal Appeal No. 83 of 2007**. That appeal was dismissed vide the judgment delivered on **29<sup>th</sup> October 2010**.
4. Thereafter the Applicant filed a Petition No. **19 of 2018** seeking re-sentencing before the High Court sitting in Nyeri. Vide a judgment delivered on **13<sup>th</sup> May 2019 Hon. Justice Ngaah** reduced the death sentenced imposed on the Applicant to a **thirty (30) year** term of imprisonment.
5. Still on a roll the Applicant filed yet another application No. **E169 of 2021** seeking review of sentence under **Section 333(2)** of the Criminal Procedure Code. That application was dismissed vide the Ruling delivered by **Hon. Lady Justice Muchemi** on **16<sup>th</sup> December 2021**.
6. The Applicant then (probably in an attempt to confuse the courts) filed a constitutional petition No. **139 of 2024** in the **High Court in Nairobi** which file was referred back to Nyeri for hearing and is the one presently before this court. In the

said constitutional petition the applicant is seeking revision of her sentence under Section 333(2) Criminal Procedure Code.

7. This is a perfect example of a litigant who ceaselessly bombards the courts with numerous applications over the same issue. This so called constitutional petition is really an application for revision of sentence in disguise. The petition was cunningly filed in **Nairobi** in an attempt to disguise the fact that several similar applications had been dismissed by the High Court in Nyeri.
8. The prayers in the present petition are the very same prayers which were presented by the Applicant in the Petition No. **E169 of 2021** filed in Nyeri. That petition was dismissed.
9. The High Court now is '**functus officio**' and this application is **Res Judicata** as the issues raised therein were considered and were determined by **Hon. Lady Justice Muchemi** in the Ruling delivered on **16<sup>th</sup> December 2021**.
10. The Applicant has exhausted her appeals. She should stop filing

applications and petitions. I find that this petition is frivolous vexatious and amounts to an abuse of court process. The same is dismissed in its entirety.

**Dated in Nyeri this 17<sup>th</sup> day of April 2026.**

.....  
**MAUREEN A. ODERO.**  
**JUDGE**

ORIGINAL