



REPUBLIC OF KENYA



KENYA LAW
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**Langat v Republic (Criminal Application E218 of 2024)
[2025] KECA 379 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KECA 379 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E218 OF 2024
MA WARSAME, JA
FEBRUARY 28, 2025**

BETWEEN

RICHARD KIPYEGON LANGAT APPLICANT

AND

REPUBLIC RESPONDENT

*(An application for extension of time to file an appeal against the Judgment
of the High Court at Nakuru (Ongeri, J.) in HCCRA No. 28 OF 2013)*

RULING

1. The applicant was charged and convicted of the offence of murder contrary to section 203 as read with section 204 of the *Penal Code* in High Court Criminal Case No. 38 of 2018 in a judgment dated 5th November 2021. He was sentenced to death and the sentence was later commuted to life imprisonment.
2. Aggrieved, the applicant now wishes to appeal the High Court's decision and seeks leave to appeal out of time vide a notice of motion dated 24th October 2024 where he contends that the sentence was harsh and excessive, that learned judge failed to consider his defence and that his identification was inconclusive and was not proved as required by law.
3. The respondent through written submissions contended that it did not oppose the application given that the sentence meted out was lengthy and this was his first appeal.



4. This court has settled on the matters which should be taken into consideration when the court was called upon to exercise its discretion. Those matters, as was stated in the case of *Leo Sila Mutiso vs Helen Wangari*, (NRB) Civil Application No. 251 of 1997, include:

“... first, the length of the delay; secondly, the reason for the delay; thirdly (possibly), the chances of the appeal succeeding if the application is granted; and fourthly, the degree of prejudice to the respondent if the application is granted.”

5. I have perused the application and the affidavit in support of the application and not a single reason has been given for the delay of about 3 years. Consequently, no tangible reason has been offered for the delay which is inordinate. This court cannot act on its own whims in granting the orders sought. I therefore decline to exercise my discretion and dismiss the application.

DATED AND DELIVERED AT NAKURU THIS 28TH DAY OF FEBRUARY, 2025

M.WARSAME

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR

