



**Langat v Republic (Miscellaneous Criminal Application  
E011 of 2024) [2025] KEHC 1233 (KLR) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1233 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
MISCELLANEOUS CRIMINAL APPLICATION E011 OF 2024**

**JK SERGON, J**

**FEBRUARY 27, 2025**

**BETWEEN**

**SAMWEL KIPCHIRCHIR LANGAT ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged and convicted for the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#) vide High Court Criminal Case No 50 of 2003 and sentenced to death.
2. The Applicant appealed to the Court of Appeal at Nakuru whereby the appeal was dismissed and the conviction and sentence affirmed.
3. The Applicant filed this application for resentencing. The Applicant stated that this court has the jurisdiction to hear and determine the application under article 165 (3) (b) of the [Constitution](#) of Kenya, 2010. The Applicant cited the Supreme Court ruling in the [Francis Karioko Muruatetu Case](#), Petition No 15 & 16 of 2015 where the apex court declared that the mandatory nature of the death sentence as unconstitutional.
4. The Applicant urged this Court to award him a lenient definite sentence under article 50 (2) (p) (q) of the [Constitution](#) of Kenya, 2010.
5. The Applicant urged this Court to invoke the provisions of section 333 (2) of the [Criminal Procedure Code](#) and that the time spent in remand be factored in the sentence to be awarded.
6. The prosecution did not oppose the said Application and left the matter to this court to exercise its jurisdiction.



7. The Officer in Charge Naivasha Maximum Security Prison wrote a letter of recommendation and stated that the applicant has been at the facility since May, 2002 and while incarcerated the applicant related well with members of staff and fellow inmates. The applicant took full advantage of the rehabilitation programmes offered at the institution, he trained and achieved Grade II in Carpentry and Joinery and that the said skills would enable him earn a living upon release.
8. The family held a meeting on 13th September, 2024 and recorded minutes. In the said meeting the family resolved to forgive the applicant having conducted the required traditional cleansing rites.
9. The applicant was arraigned in Court on 28th October, 2003 for plea taking and he was sentenced to death on 27th January, 2006. The applicant was remanded during trial, therefore, the applicant has been incarcerated for a period of 21 years.
10. In the case of *Muruatetu & another v Republic; Katiba Institute & 4 others (Amicus Curiae)* (Petition 15 & 16 of 2015) [2021] KESC 31 (KLR) (6 July 2021) (Practice Directions) the Supreme Court set out guidelines on resentencing. The Supreme Court stated as follows;“ Having considered all the foregoing, to obviate further delay and avoid confusion, we now issue these guidelines to assist the courts below us as follows:
  - i. The decision of Muruatetu and these guidelines apply only in respect to sentences of murder under sections 203 and 204 of the *Penal Code*;
  - ii. The Judiciary Sentencing Policy Guidelines to be revised in tandem with the new jurisprudence enunciated in Muruatetu;
  - iii. All offenders who have been subject to the mandatory death penalty and desire to be heard on sentence will be entitled to re-sentencing hearing.
  - iv. Where an appeal is pending before the Court of Appeal, the High Court will entertain an application for re-sentencing upon being satisfied that the appeal has been withdrawn.
  - v. In re-sentencing hearing, the court must record the prosecution’s and the appellant’s submissions under section 329 of the *Criminal Procedure Code*, as well as those of the victims before deciding on the suitable sentence.
  - vi. An application for re-sentencing arising from a trial before the High Court can only be entertained by the High Court, which has jurisdiction to do so and not the subordinate court.
  - vii. In re-hearing sentence for the charge of murder, both aggravating and mitigating factors such as the following, will guide the court;
    - (a) Age of the offender;
    - (b) Being a first offender;
    - (c) Whether the offender pleaded guilty;
    - (d) Character and record of the offender;
    - (e) Commission of the offence in response to gender-based violence;
    - (f) The manner in which the offence was committed on the victim;
    - (g) The physical and psychological effect of the offence on the victim’s family;
    - (h) Remorsefulness of the offender;



- (i) The possibility of reform and social re-adaptation of the offender;
  - (j) Any other factor that the court considers relevant.
- viii. Where the appellant has lodged an appeal against sentence alone, the appellate court will proceed to receive submissions on re-sentencing.
- ix. These guidelines will be followed by the High Court and the Court of Appeal in ongoing murder trials and appeals. They will also apply to sentences imposed under section 204 of the [Penal Code](#) before the decision in Muruatetu.”
11. Pursuant to the Supreme Court decision in Francis Kariokor Muruatetu (supra), this court has the jurisdiction to resentence the applicant. Accordingly, and in consideration of the facts here, this court sets aside the death sentence and in its place substitutes the same with a sentence of 20 years imprisonment. The sentence to run from the date of sentence i.e. 27/1/2006. This court takes into account the fact that the Applicant has been in custody pending trial and awaiting his execution for a cumulative period of 21 years. It is clear he has served the sentence now pronounced.
12. Consequently, the Applicant namely: Samuel Kipchirchir Langat, is hereby set free forthwith.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 27TH DAY OF FEBRUARY, 2025.**

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**J.K. SERGON**

**JUDGE**

In the presence of:

C/Assistant – Rutoh

Prosecutor – No Appearance

Applicant – Present in Person

