



REPUBLIC OF KENYA



KENYA LAW
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**Komi v Republic (Miscellaneous Application E279 of 2022)
[2025] KEHC 2408 (KLR) (Crim) (25 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2408 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
MISCELLANEOUS APPLICATION E279 OF 2022
CJ KENDAGOR, J
FEBRUARY 25, 2025**

BETWEEN

ISAAC KIRUGO KOMI APPLICANT

AND

REPUBLIC RESPONDENT

*(Arising from decisions in Court of Appeal at Nairobi Criminal Appeal
No. 1 of 2017, High Court at Nairobi Criminal Case No. 88 of 2008)*

RULING

1. The Applicant has filed the instant application seeking orders on resentencing. The application is supported by an affidavit by the Applicant filed on 26th September, 2022.
2. The Applicant was charged, convicted and sentenced in High Court at Nairobi, Criminal Division Milimani Criminal Case No. 88 of 2008. The conviction was on two counts; Count I- of the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The Particulars of the first count was that on diverse dates between 8th and 13th September, 2008 at Kihara Shopping Centre, Kiambu District, the applicant murdered Jane Wanjiru Kagoya.
3. In count II; offence of attempted suicide contrary to Section 226 of the *Penal Code*, the particulars of the second count were that on the 15th September, 2008 at the said shopping centre, the Applicant attempted to kill himself by taking poison.
4. Upon conviction on the two counts, he was sentenced to death in Count I and the sentence in Count II was suspended.



5. His appeal to the Court of Appeal in Nairobi Criminal Appeal No. 1 of 2017 (Komu v Republic [2022] KECA 758 (KLR) was dismissed and the sentence was affirmed.
6. The Applicant argues that his life sentence was imposed as a mandatory minimum sentence and that, therefore, he is entitled to resentencing based on legal precedents regarding such sentences.
7. The Court of Appeal in deciding the appeal he lodged against the High Court decision held as follows;

“ 39. The prosecution proved its case to the required standard and the manner in which the deceased was killed and the body mutilated called for the sentence that was imposed by the trial court. This appeal has no merit and we dismiss it in its entirety.”

8. The Court of Appeal decision shows significant attention to the examination of the specific sentence that was imposed in this particular case.
9. In light of the above, should this Court decide to reconsider the sentence, it would undermine the established hierarchy of the judicial system. Since the last Court to sentence the convict was the Court of Appeal, the application for resentencing should be submitted to the Court of Appeal. The High Court or any Subordinate Court can only address the matter if there is a specific order remitting the case for a re-sentencing hearing.
10. Under the Judiciary Sentencing Policy Guidelines, 2023, which makes provision for resentencing in paragraph 4.8.18, jurisdiction to hear the application for resentencing in this matter lies with the Court of Appeal.
11. The application is dismissed.

It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 25TH DAY OF FEBRUARY, 2025

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C. KENDAGOR

JUDGE

In the presence of:

Applicant present

Ms. Omondi ODPP, for Respondent

