



**Gulu v Republic (Miscellaneous Criminal Case E010 of 2025)
[2025] KEHC 5252 (KLR) (30 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5252 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
MISCELLANEOUS CRIMINAL CASE E010 OF 2025**

**JN ONYIEGO, J
APRIL 30, 2025**

BETWEEN

OSMAN HARUN GULU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The appellant herein was charged in Garissa Chief Magistrate's Court Sexual Offence Case No. 39 of 2020 with the offence of defilement contrary to section 8(4) of the [Sexual Offences Act](#) No 3 of 2006.
2. The particulars of the offence were that on diverse dates and time between 31.07.2020 and 16.08.2020 at [particulars withheld] village in Garissa Sub County within Garissa County, he intentionally and unlawfully caused his genital organ namely penis to penetrate the genital organ namely vagina of Y. A. C., a child aged 16 years.
3. He also faced an alternative count of committing an indecent act with a child contrary to section 11(1) of [Sexual Offences Act](#) in respect of which he was discharged.
4. The appellant denied the charges and upon full hearing, the trial court convicted him of the said offence and sentenced him to serve (15) years' imprisonment. Upon considering the appeal, the court upheld the conviction but reduced the sentence to 5 years.
5. Undeterred, he has now moved to this court seeking the court to consider placing him on community service so as to decongest prisons and also give him an opportunity to serve society.
6. The respondent opposed the application on grounds that the court is functus officio. I have considered the application and the objection thereof. The application is merely seeking a review of sentence. It is trite that a high court has supervisory powers over subordinate courts, tribunals and other quasi-judicial bodies.



7. Equally, under sections 362 and 364 of the CPC the high court has supervisory jurisdiction over subordinate courts where, acts of impropriety, illegality or irregularity of proceedings is reported. In this case, the court is being asked casually to place the applicant on community service. There is no basis laid out to justify grant of the orders sought. The court is indeed functus officio. See *Barango Siany Atembe v Republic (Kisii HCCR. Revision No. 194 of 2023)*. Accordingly, it is my finding that the application is without basis hence dismissed.

DATED, SIGNED AND DELIVERED THIS 30TH DAY OF APRIL 2025

J. N. ONYIEGO

JUDGE

