



REPUBLIC OF KENYA



**KENYA LAW**  
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**Gachucha v Republic (Criminal Revision E025 of 2025)  
[2025] KEHC 9505 (KLR) (Crim) (30 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9505 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL  
CRIMINAL REVISION E025 OF 2025**

**AM MUTETI, J**

**JUNE 30, 2025**

**BETWEEN**

**JACKSON KIHARA GACHUCHA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant by way of a chamber of summons dated 4<sup>th</sup> February 2025 moved this court under Articles 22,23,27 (1) (2) and 50 of *the Constitution* seeking an order for resentencing.
2. The applicant was tried, convicted and sentenced for the offence of robbery with violence contrary to Section 296 (2) of the *Penal Code*.
3. The applicant was sentenced to serve 20 years imprisonment which he now seeks to have commuted to community service.
4. The applicant was sentenced on 29<sup>th</sup> May 2019 and he appealed to this court and to the Court of Appeal.
5. The appeal failed in both courts but he is now urging this court to revisit the issue of sentence.
6. This court has considered the submissions filed in this matter by counsel for both parties.
7. The court is minded to dispose of the application on the sole question of jurisdiction.
8. In Owners of Motor Vessel “Lillian S” Vs. Caltex Oil (Kenya) Ltd (Civil Appeal 50 Of 1989) [1989] KECA 48 (KLR) (17<sup>TH</sup> Nov. 1989) (Judgment) Nyarangi, JA held that jurisdiction is everything and without it a court cannot take any one more step in a proceeding. The court would be acting in futility if it were to entertain proceedings knowing too well that it lacks jurisdiction to entertain the matter.



9. It is thus the duty of a court adjudicating on a matter to consider downing its tools the moment it considers itself bereft of jurisdiction to entertain the matter. Judicial time is a very scarce resource and must be expended on deserving cases that inundate the courts today.
10. The hierarchy of courts in this country is well set out under Article 162 of *the Constitution* with the Supreme Court at the apex.
11. Decisions of the Court of Appeal bind the High Court and as such the High Court cannot purport to adjudicate on a matter that the Court of Appeal has pronounced itself on.
12. In the instant case, the Court of Appeal heard the applicant on both conviction and sentence and dismissed his Appeal. To return to this court and seek the variation of the Court of Appeal decision on sentence is to invite the court to indulge in an obvious illegality that this court is unwilling to engage in.
13. This court has no business reopening the matter as that would offend the doctrine of stare decisis. The applicant must appreciate that there is a reason as to why the various superior courts exist. The High Court having dealt with the matter before and made a decision, to seek to revisit the same even after the Court of Appeal has acted on his appeal is a classic case of abuse of the legal process. The applicant is to say the least bent on vexing this court.
14. As a result, the application for resentencing is struck out for want of jurisdiction.
15. If the applicant is still desirous of pursuing the matter any further, he has the option of moving to the Supreme Court if he has any Constitutional issues in the matter which he considers weighty enough for consideration by the Supreme Court.
16. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 30<sup>TH</sup> DAY OF JUNE 2025.**

**A. M. MUTETI**

**JUDGE**

In the Presence of

Court Assistant: Kiptoo

Ms Maina for Applicant

Ms Ogega for Respondent

Applicant present at Manyani Prison

