



**NMN v Republic (Criminal Petition E001 of 2025)  
[2025] KEHC 9638 (KLR) (30 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9638 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
CRIMINAL PETITION E001 OF 2025  
LN MUTENDE, J  
JUNE 30, 2025**

**BETWEEN**

**NMN ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. NMN, the Applicant, was charged, convicted and sentenced to serve life imprisonment for the offence of Incest contrary to Section 20(1) of the [Sexual Offences Act](#), on 28<sup>th</sup> April, 2017.
2. Aggrieved, he proffered an appeal to the High Court which was allowed with the offence of Incest being substituted with Committing an Indecent Act with a child contrary to Section 11(1) of the [Sexual Offences Act](#), and sentenced to serve 15 years imprisonment. (See HCCRA No. 156 of 2017).
3. Being dissatisfied further with the decision, he seeks intervention of this court. The argument raised is that the court did not consider time spent in custody.
4. I have considered the averments. It is worth noting that this matter was considered and determined by the High Court (Wendoh J) a court of concurrent jurisdiction with this court which divests it of the jurisdiction to re-open the case. The High Court did issue a final order on sentence hence it's functus officio.
5. Additionally, in Republic v Mwangi & Others Petition No. E018 of 2023 (2024) KESC 34(KLR) the Supreme Court stated that the decision of Muruatetu didn't invalidate mandatory sentence, minimum sentence in the [Penal Code](#), the [Sexual Offences Act](#) or in any other statutes.
6. From the foregoing the application is without merit. Accordingly, it is dismissed.
7. It is so ordered.



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

.....

L.N. MUTENDE

JUDGE

