



**Rugendo v Republic (Criminal Miscellaneous Application
E013 of 2025) [2025] KEHC 10093 (KLR) (30 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 10093 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL MISCELLANEOUS APPLICATION E013 OF 2025**

RL KORIR, J

JUNE 30, 2025

BETWEEN

JOHN MUTWIRI RUGENDO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. John Mutwiri Rugendo (Petitioner/Applicant) was charged with the offence of defilement contrary to Section 8(1) (2) of the *Sexual Offences Act*. He was alleged to have committed the offence on 6th August 2019 at Kambandi village at Muiru Location, Meru South Sub-County, within Tharaka Nithi County. The victim of the offence was one T.N.K. a child aged 10 years.
2. At the conclusion of the trial the Petitioner (then Accused) was convicted and sentenced to serve 20 years imprisonment.
3. Dissatisfied with the Judgement of Hon. J.M Njoroge (CM) the Applicant filed an appeal to the High Court. Upon being served a Notice of enhancement of sentence by the Prosecution, the Applicant withdrew his Appeal. The Court marked the Appeal withdrawn on 25th January 2023.
4. The Applicant subsequently filed the present Application dated 23rd July 2024. He stated that he was convicted and sentenced to 20 years imprisonment. That he was satisfied with the conviction. That he had suffered behind bars and was now aware of the consequences of crime and prayed for an alternative sentence.
5. The Respondents opposed the Application and filed written submissions dated 29th April 2025. They submitted that the sentence imposed was appropriate for reason that the victim was aged only 10 years and would suffer the effects of the crime for her lifetime; therefore the sentence served a deterrent purpose.



6. At the hearing of the Application, the Applicant requested to make oral submissions. He submitted that he was now rehabilitated. He prayed that the court may extend mercy to him as he had children who were dependent on him and were now suffering.

Analysis and Determination:

7. This is a sentence review. The revisionary power this Court is provided under Section 362-364 of the [Criminal Procedure Code](#).
8. I called for and examined the trial court record. The Applicant was tried for the offence of defilement. He was found guilty after both the Prosecution and the defence tendered their evidence. I have found nothing irregular in the trial.
9. With respect to the sentence, the Applicant was sentenced to 20 years imprisonment. This was a lawful sentence under Section 8(3) of the [Sexual Offences Act](#). There was nothing unlawful or irregular about the sentence.
10. A 20 year sentence may be harsh and the Applicant may have truly reformed as submitted. However the sentence in Section 8 (3) was a minimum mandatory sentence and this court, like the court below had no discretion to set it aside. In the case of [Republic v Julius Kitsao Manyeso](#), Petition No E013 of 2024, the Supreme Court stated the principle that where statute set the applicable sentence, the role of the court was to impose such sentence. The Court held that:-

“(64) Paragraph 11 to 14 of the Muruatetu directions are very clear that the decision in the Muruatetu case did not invalidate mandatory sentences or minimum sentences in the [Penal Code](#), [Sexual Offences Act](#) or any other statute. Further, that the Muruatetu case cannot be said to be the authority for stating that all provisions of the law prescribing minimum sentences are inconsistent with the [Constitution](#).....”

11. In the end, I find no merit in the Application. It is dismissed.
Orders accordingly.

RULING DELIVERED, DATED AND SIGNED AT CHUKA THIS 30TH DAY OF JUNE, 2025.

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R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the Applicant at Embu Prison and acting in person, Ms Rukunga for the Respondent. Muriuki (Court Assistant).

