



**Ogolla v Republic (Criminal Miscellaneous Application
E084 of 2025) [2025] KEHC 9308 (KLR) (27 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9308 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL MISCELLANEOUS APPLICATION E084 OF 2025**

A MABEYA, J

JUNE 27, 2025

BETWEEN

DENNIS OMONDI OGOLLA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Dennis Omondi Ogolla, the applicant was charged before this Court with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*.
2. Following his trial, he was found guilty, convicted and sentenced to serve 30 years' imprisonment. His appeal to the Court of Appeal vide Kisumu CRA No. 34 of 2019 was finally dismissed on 15/11/2024.
3. In its judgment, the Court of Appeal (Okwengu, Omondi and Ngugi JJA) observed: -

“27. This Court, in *Chai vs Republic* (Criminal Appeal No. 30 of 2020 [2022] KECA 495 (KLR), held that the two holdings of the Supreme Court in the Muruatetu case make it very clear and underscores the importance of receiving and considering mitigating circumstances, and also of applying applicable sentencing guidelines, even though the latter are a guide. From the record, this Court finds that the trial Court followed the guidelines set out by the Supreme Court with regards to mitigation, called for the victim impact statement and weighed it against the circumstances surrounding the offence. In so doing the trial court used its discretion in making an informed decision with regard to sentencing. To that end, we find that this appeal lacks merit and upholds the judgment of the High Court and we therefore affirm the sentence of 30 years' imprisonment and dismiss the appeal in its entirety.”



4. On 21/2/2025, the applicant took out a Motion on Notice in which he sought that his sentence of 30 years be substituted with a lenient one. He raised the aspect of that sentence being punitive and the issues of Articles 27, 28 and 50(2) of the Constitution.
5. I have considered the record and the applicant's averment. I have already set out what the Court of Appeal rendered itself in its decision of 15/11/2024 in Kisumu CRA No. 34 of 2019. That being the case, this Court is bereft of any jurisdiction to second guess that Court's holding.
6. Accordingly, this Court has no jurisdiction to entertain the Motion dated 21/2/2025 and hereby strikes is out.

It is so ordered.

DATED AND DELIVERED AT KISUMU THIS 27TH DAY OF JUNE, 2025.

A. MABEYA, FCI Arb

JUDGE

