



Paul v Republic (Criminal Miscellaneous Application E241 of 2024) [2025] KEHC 9320 (KLR) (27 June 2025) (Ruling)

Neutral citation: [2025] KEHC 9320 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL MISCELLANEOUS APPLICATION E241 OF 2024**

A MABEYA, J

JUNE 27, 2025

BETWEEN

MICHAEL ANGARA PAUL APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Michael Angara Paul ‘the applicant’, was charged with the offence of defilement contrary to section 8(1) and (3) of the *Sexual Offences Act* No. 3 of 2006. It was alleged that between the dates of 1/9/2014 and 13/9/2014 at a place named in the Charge Sheet, he intentionally caused his penis to penetrate the vagina of ‘CC’ a child of 12 years.
2. His appeal to the High Court (E. N. Maina J) and the Court of Appeal (Nambuye, Okwengu and Kantai JJA) were dismissed. The Court of Appeal case was Kisumu CRA No. 194 of 2016. In its judgment delivered on 5/2/2021, the Court of Appeal observed: -

“Counsel for the appellant submitted that we should reconsider the sentence imposed an review it. The train magistrate considered the mitigation offered on behalf of the appellant. That he was of advanced age with a family; had responsibilities and was a first offender and sentenced him to serve twenty years imprisonment, a sentence confirmed on first appeal. Looking at all the circumstances including the fact that the defiled child was 12 years old, we think that sentence awarded was well deserved. The appeal has no merit and we dismiss it.”

3. By an undated Motion on Notice, the applicant sought that his sentence be revised. He relied on various constitutional provisions including Articles 2(1), 19, 20, 22, 23, 25(c), 27, 28, 50 and 165 of *the Constitution*. He argued that he was 62 years, born again, had reformed and produced several certificates which he has so far obtained while in custody. He therefore urged that his sentence be reviewed appropriately.



4. Ms. Kagali for the State submitted that although sentencing is in the discretion of the Court, the Court should be guided by and consider the principle of stare decisis.
5. I have considered the application carefully. I appreciate the mitigation set out on the body of the Motion and in the Supporting affidavit. I have also considered the various constitutional provisions relied on by the applicant. I have considered his changed character and reformation and his urge that he be reconsidered for sentence review.
6. While this Court has revisionary jurisdiction under Article 165 of *the Constitution* and section 362 of the *Criminal Procedure Code*, that jurisdiction does not extend to revising decisions of the Court leave alone where the Kenya Court of Appeal has pronounced itself as it have done in this case. Venturing into that arena on the pretext of interpreting the various provisions of *the Constitution* shall be a grave violation of the very same Constitution. This Court cannot second guess what the Court of Appeal has already determined.
7. Accordingly, I hold that this Court has no jurisdiction to hear and determine the application undated and hereby strikes out the same. Same be provided to the applicant.

It is so ordered.

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

A. MABEYA, FCI Arb

JUDGE

