



Oduor v Republic (Miscellaneous Criminal Application E070 of 2023) [2024] KEHC 609 (KLR) (30 January 2024) (Ruling)

Neutral citation: [2024] KEHC 609 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E070 OF 2023**

**DO OGEMBO, J
JANUARY 30, 2024**

BETWEEN

BRIAN OBURA ODUOR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant herein was charged with the offence of gang rape contrary to Section 10 of the [Sexual Offences Act](#), No. 3 of 2006. This was vide, CM’s court (Siaya) Criminal Case No. 7 of 2019. On 6-2-2020, he was sentence to serve 15 years imprisonment. Aggrieved, he filed an appeal to the High court, being Criminal Appeal No. 5 of 2020. In a judgment delivered by the court on 16/12/2020, the appeal of the applicant was dismissed. The court in the process observed that the sentence of the applicant was lawful.
2. The applicant has now filed this application dated 3-8-2023 seeking revision of the said sentence.
3. In support of this application, the applicant has submitted that the sentence is harsh. He has also raised several factors of mitigation including that he is a first offender, and that he has been rehabilitated.
4. This court obtains its powers of revision from Article 165 of the [Constitution](#) and Section 362 of [Criminal Procedure Code](#). And such powers of revision are limited to orders, findings or judgements of subordinate courts. This application, on the other hand, seeks that this court revises or reviews a decision of a Judge of concurrent jurisdiction.
5. This would be tantamount to this court sitting on appeal on its own decision.
6. As seen above, neither the Constitution nor any written law bestows on this court any such powers of revision of orders or findings of a court of concurrent jurisdiction. For want of jurisdiction, this



application fails. I accordingly dismiss the applicant's application dated 3-8-2023 wholly. It is so ordered.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 30TH DAY OF JANUARY, 2024

D.O. OGEMBO

JUDGE

30.1.2024

Court:

Ruling read in court in the presence of the Applicant and Ms. Mumu for State.

D.O. OGEMBO

JUDGE

30.1.2024

