



**Katiwa v Republic (Miscellaneous Criminal Application  
E069 of 2023) [2024] KEHC 571 (KLR) (26 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 571 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
MISCELLANEOUS CRIMINAL APPLICATION E069 OF 2023**

**A. ONG'INJO, J  
JANUARY 26, 2024**

**BETWEEN**

**BENSON MUTUKU KATIWA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

**Application**

1. The applicant Benson Mutuku Katiwa was arraigned in court on 31.8.2018 and charged in Mombasa Chief Magistrate's Court Criminal Case No. 63 of 2018 with the offence of attempted defilement contrary to section 9 (1) of the [Sexual Offences Act](#) No. 3 of 2006.
2. The applicant was convicted and sentenced to serve 10 years imprisonment on 27.7.2021 but the sentence was to run from 31.8.2018.
3. In his application for resentencing, the applicant sought that this court considers placing him on non-custodial sentence for the remainder of the period of his sentence.
4. The Sentence Review Report has been considered but upon perusal of the proceedings in Sexual Offence Case No. 63 of 2018, this court finds that the applicant who preyed on a 3 ½ year old child and was caught attempting to defile her should complete serving his sentence.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,  
THIS 26<sup>TH</sup> DAY OF JANUARY 2024**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**In the presence of: -**



Ogwel- Court Assistant

Mr. Ngiri for the Respondent

Applicant present in person

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

