



**Hare v Republic (Miscellaneous Criminal Application
E144 of 2023) [2024] KEHC 570 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 570 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CRIMINAL APPLICATION E144 OF 2023**

**A. ONG'INJO, J
JANUARY 25, 2024**

BETWEEN

JAMES MWALIMU HARE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

Application

1. The applicant James Mwalimu Hare was arraigned in court on 26.8.2019 and charged in Shanzu Principal Magistrate's Court Sexual Offence Case No. 103 of 2019 with the offence of committing an indecent act with a child contrary to Section 11 (1) of the *Sexual Offences Act* No. 3 of 2006.
2. The particulars of the offence are that on the 19th day of August 2019 at [Particulars withheld] Village, Bamburi Location in Kisauni Sub-County within Mombasa County intentionally and unlawfully touched the buttocks and breasts of RNN a child aged 17 years using his fingers.
3. The applicant was convicted and sentenced to serve 5 years imprisonment on 24.9.2021.
4. In his application for resentencing, the applicant seeks that the 3 months he spent in remand custody should be factored in his sentence.
5. To consider the applicant's application, this court called for a Sentence Review Report which was filed on 24.11.2023 showing that the applicant who is currently 44 years of age and has served 2 years and 4 months in prison and had been remanded from 26.8.2019 and released on bond on 23.11.2019.
6. Having considered the Sentence Review Report, the applicant herein is placed on community service order at Kisauni Probation Station for a period of 6 months. The CSO order is made on condition that the applicant becomes an ambassador against sexual and gender based violence in his home area and attends the Assistant Chief's baraza at Majaoni at least once in a month and talk to members of



the public within his home area about the negative effects of sexual and gender based violence to the community in general. The probation officer in charge of his supervision to file a report to that effect at the conclusion of such supervision.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,
THIS 25TH DAY OF JANUARY 2024**

HON. LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of: -

Etropia- Court Assistant

Mr. Ngiri for the Respondent

Applicant present in person

HON. LADY JUSTICE A. ONG'INJO

JUDGE

