



**Ndoro v Republic (Miscellaneous Criminal Application  
E103 of 2023) [2024] KEHC 574 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 574 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
MISCELLANEOUS CRIMINAL APPLICATION E103 OF 2023**

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

**BETWEEN**

**SAID CHAKA NDORO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

**Application**

1. The applicant Said Chaka Ndoro was arraigned in court on 9.6.2011 and charged in Mombasa Chief Magistrate's Court Criminal Case No. 1854 of 2011 with the offence of defilement contrary to Section 8 (1) as read with 8 (3) of the *Sexual Offences Act* No. 3 of 2006.
2. The applicant was convicted and sentenced to serve 20 years imprisonment on 25.9.2012. His appeal in Criminal Appeal No. 230 of 2012 at Mombasa High Court but the trial court file was not traced and he opted to withdraw the appeal by a letter dated 12.6.2023 and opted to file an application for resentencing.
3. In his application for resentencing, the applicant sought that this court considers his mitigation and reviews the sentence as his mitigation was not heard considering the mandatory nature of the sentence under Section 8(3) of the *Sexual Offences Act*. He prayed that the holding in Const. Pet. No. E017 of 2021, *Phillip Mueke Maingi & Other v Republic* should be applied to him.
4. To consider the applicant's application, this court called for a Sentence Review Report which was filled on 16.11.2023 showing that the applicant who is 51 years of age had served 11 years and 2 months in prison. It is also indicated that he was in remand custody from 9.6.2011 before he was convicted and sentenced to serve 20 years from 25.9.2012.



5. The Sentence Review Report indicate that the applicant's friend, mother and village elder spoke well of him and proposed that his sentence be reviewed as they were ready to reintegrate him back to the community.
6. In consideration that the applicant has served a substantial period of his sentence, this court makes an order that he serves the remainder of 2 years under probation supervision on condition that he becomes an ambassador against sexual and gender based violence in his home area and attends at least one Chief/Assistant Chief's baraza and/or mosque/church in a month and talk to members of the public within his home/residence 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  
25<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**

