



**Milgo alias Osama v Republic (Criminal Appeal E016 of 2021)  
[2024] KEHC 1978 (KLR) (29 February 2024) (Judgment)**

Neutral citation: [2024] KEHC 1978 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL APPEAL E016 OF 2021  
JR KARANJA, J  
FEBRUARY 29, 2024**

**BETWEEN**

**RICHARD KIPKOECH MILGO ALIAS OSAMA ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**JUDGMENT**

1. Although the petition of appeal filed herein on 18<sup>th</sup> November 2021 alludes to the appeal being on both conviction and sentence, it would appear that the appellant changed his mind by filing amended grounds of appeal on 1<sup>st</sup> July 2023 thereby abandoning the appeal on conviction and proceeding with the appeal on sentence only. The state/respondent is not opposed to the appeal.
2. An appeal on sentence is premised on the condition that the sentence imposed was unlawful and/or the sentence was too harsh and excessive in the circumstances of the case.
3. Herein, the appellant was charged with incest and sentenced to twenty five years imprisonment. The trial court in passing the sentence considered the appellants mitigating factors and the call by the prosecution to accord the appellant the maximum sentence that there could be i.e life imprisonment for reasons that the victim was aged 12 years old and a biological daughter of the accused/appellant.
4. In mitigation, the appellant did not appear remorseful but asked the court to consider his welfare and that of his children who were in school. Considering the foregoing, the sentence was lawful and reasonable in the circumstances of the case. It is therefore ironic that the state raises no objection to the appeal yet it called for a maximum sentence.
5. Be that as it may, the appellant has informed this court that he is 49 years married with six (6) children who depend on him. He also says that he is remorseful and has since been forgiven by his family. In the circumstances, it would be prudent that the sentence be reduced to ten (10) years imprisonment. The appeal therefore succeeds to that extent.



Ordered accordingly.

**DATED AND DELIVERED THIS 29<sup>TH</sup> DAY OF FEBRUARY, 2024.**

**J. R. KARANJAH**

**JUDGE**

