



**Muliungi v Republic (Miscellaneous Criminal Application
16 of 2024) [2024] KEHC 1874 (KLR) (26 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1874 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION 16 OF 2024**

**DR KAVEDZA, J
FEBRUARY 26, 2024**

BETWEEN

ALEX BONIFACE MULIUNGI APPLICANT

AND

REPUBLIC RESPONDENT

(Appeal from the Court of Appeal in Criminal Appeal no. 351 of 2006. The matter was heard by Waki, Gatumbu and Murgor (JJA), and dismissed on 9th May 2014.)

RULING

1. The applicant filed a notice of motion application seeking resentencing. The application is supported by an affidavit sworn by the applicant. The averments made in support of the application are that is remorseful for the crime committed. He urged the court to resentence him.
2. In his pleadings, the applicant contended that he was an accused at Kibera Criminal case no. 2169 of 2005 and an appellant in High Court criminal case no. 351 of 2006. Having been convicted by the trial court, a conviction which was sustained by the High Court, he filed an appeal to the Court of Appeal in Criminal Appeal no. 351 of 2006. The matter was heard by Waki, Gatumbu and Murgor (JJA), and dismissed on 9th May 2014. That at the time, he was serving the death sentence which was commuted to life imprisonment. He maintains that he has been in prison for nineteen (19) years which is adequate rehabilitation. He urged the court to resentence him.
3. I have considered the application, the affidavit in support and the applicable law. From the record, I note that the matter was already handled by the Court of Appeal. If this court ventures into handling the application on its merits would be tantamount to a disregard for the hierarchy of courts. This court has no jurisdiction to supervise a superior court. As noted above, this court has already discharged its duty and became *functus officio*. I do not understand why the applicant having exhausted his avenues of appeal has come back to this court unless he is intent on abusing the court process.



4. As a result, the application is dismissed. The applicant is directed not to file a similar application unless with the leave of court.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 26TH DAY OF FEBRUARY 2024

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D. KAVEDZA

JUDGE

