



**Luyombe v Director of Public Prosecution (Criminal Revision
E037 of 2023) [2024] KEHC 1767 (KLR) (22 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1767 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL REVISION E037 OF 2023
SC CHIRCHIR, J
FEBRUARY 22, 2024**

BETWEEN

VICTOR ISIAHO LUYOMBE APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTION RESPONDENT

RULING

1. The Applicant's Notice of Motion filed on January 19, 2023 seeks for revision of sentence. He prays that the prison meted out by the trial court be reviewed downwards or be given a non- custodial sentence.
2. The Application is premised on grounds that the intended punishment can still be achieved by way of a lesser sentence; that the applicant is a first offender, remorseful and has been of good conduct; that he has dependants back home who need his care.

Determination

3. Article 165(6) of the *Constitution* and Section 362 of the *Criminal Procedure Code* grants the High Court the supervisory powers of the subordinate courts.
4. In reviewing orders of the subordinate courts, the high court checks on the legality, correctness or property of the orders or sentence passed or regularity of the proceedings passed by the subordinate courts. (Ref: section 362 of the *Criminal Procedure Code*)
5. The Applicant was charged with attempted defilement of a 16-year old child. He was convicted and sentenced to 7 years in prison. The offence carries a sentence of not less than 10 years. Thus there is nothing incorrect, illegal or improper about the sentence of 7 years.
6. In any event, if the applicant felt aggrieved by the 7 years sentence, he ought to have filed an Appeal, not a review.



7. The applications without any merit and the same is dismissed.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 22ND DAY OF FEBRUARY, 2024

S. Chirchir

Judge

In the presence of

Godwin - Court Assistant

The Appellant

