



**Ochieng v Director of Public Prosecution (Criminal Revision  
E036 of 2023) [2024] KEHC 1738 (KLR) (22 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1738 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CRIMINAL REVISION E036 OF 2023  
SC CHIRCHIR, J  
FEBRUARY 22, 2024**

**BETWEEN**

**JULIUS AKOTH OCHIENG ..... APPLICANT**

**AND**

**DIRECTOR OF PUBLIC PROSECUTION ..... RESPONDENT**

**RULING**

1. The applicant was charged with the offence of defilement contrary to section 8(1)(4) of the [Sexual Offences Act](#) No. 3 of 2006. The victim was a 16 years old girl.
2. After a full trial he was sentenced to 7 years in prison. The grounds for review are that the purpose of punishment can still be achieved by a served period than the 7 years meted out. That the applicant was a first offender, was remorseful and has been of good conduct. That he has undergone rehabilitation programmes, while in prison.

**Determination**

3. The High Court is granted supervisory powers over the subordinate's court pursuant to article 165(6) and 7 of the [constitution](#), and section 362 of the [Criminal Procedure Code](#).
4. In exercising this supervising jurisdiction, section 362 of the [Penal Code](#) obligates the high court to assess the correctness, legality or propriety of a finding, sentence or order made by the subordinate courts. The high court is also required to check on the regularity of the proceedings undertaken by a subordinate court (Ref section 362 of the [Penal Code](#))
5. The applicant herein was charged with the offence of defiling a child aged 16 years at the time, contrary to section 8(4). The prescribed sentence under section 8(4) is a term of imprisonment of not less than 15 years. The applicant herein has not demonstrated how illegal, irregular, incorrect or improper the



sentence of 7 years is. In the light of the minimum sentence prescribed by the Act, the applicant escaped with a lenient sentence, in my view.

6. In a nutshell the applicant has no valid grounds for revision of his sentence. The application is unmerited and the same is hereby dismissed.

**DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 22<sup>ND</sup> DAY OF FEBRUARY, 2024**

**S. CHIRCHIR**

**JUDGE**

**In the presence of**

Godwin - Court Assistant

Applicant

