



**Macharia v Republic (Miscellaneous Criminal Application 15 of 2023) [2024] KEHC 4164 (KLR) (30 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4164 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
MISCELLANEOUS CRIMINAL APPLICATION 15 OF 2023**

**DR KAVEDZA, J  
APRIL 30, 2024**

**BETWEEN**

**SAMUEL NJUGA MACHARIA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant filed a chamber summons application seeking resentencing. The application is supported by an affidavit sworn by the applicant. The averments made in support of the application are that he is rehabilitated, having been in custody for nine years. He urged the court to resentence him.
2. In his pleadings, the applicant contended that he was charged, convicted and sentenced by the Chief Magistrate’s court for the offence of defilement in Kibera Magistrate’s Court Criminal case no. 662 of 2013. His appeal to the High Court, being no. 197 of 2013 was dismissed on 19<sup>th</sup> April 2016. Similarly, his appeal to the Court of Appeal, being no. 20 of 2017 was dismissed on 24<sup>th</sup> July 2020. That at the time, he is serving life imprisonment. He maintains that the time he has spent in prison 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, it 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.
5. File closed.



Orders accordingly.

**RULING DATED AND DELIVERED THIS 30<sup>TH</sup> DAY OF APRIL 2024**

**D. KAVEDZA**

**JUDGE**

In presence of:

N/A for the Applicant

Mr. Mongare for the Respondent

Nelson C/A

