



**Ndanga v Republic (Miscellaneous Criminal Application
9 of 2024) [2024] KEHC 4217 (KLR) (29 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4217 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION 9 OF 2024**

**DR KAVEDZA, J
APRIL 29, 2024**

BETWEEN

FRANCIS KANILA NDANGA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant filed a notice of motion application seeking resentencing. The application is supported by an affidavit filed on 30th May 2023 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 charged, convicted and sentenced to death by the Chief Magistrate’s court criminal case no. 2556 of 2005 for the offence of robbery with violence contrary to section 296 (2) of the *Penal Code*. His appeal to the High Court in High Court High Court Criminal Appeal no. 304 of 2005 was dismissed. Similarly, his appeal to the Court of Appeal being no. 297 of 2007 was also dismissed and the sentence was affirmed. 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 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 29TH DAY OF APRIL 2024

D. KAVEDZA

JUDGE

