



**Obero v Republic (Criminal Petition E031 of 2023)  
[2024] KEHC 4856 (KLR) (25 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4856 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
CRIMINAL PETITION E031 OF 2023**

**A. ONG'INJO, J**

**APRIL 25, 2024**

**IN THE MATTER OF ARTICLE 22(1), 23(1), 25(C), 27, 28, 50(2)(P)  
(Q), 159(2), 160(1), AND 165 OF THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF SECTIONS 216, 329 AND 333(2) OF THE  
CRIMINAL PROCEDURE CODE CAP 75 LAWS OF KENYA**

**BETWEEN**

**PETER MOTE OBERO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged, convicted and sentenced to suffer death for the offence of murder contrary to Section 203 as read with 204 of the [Penal Code](#) in Mombasa High Court Criminal Case No. 7 of 2003.
2. The Applicant appealed the decision in Mombasa Court of Appeal Criminal Appeal No. 177 of 2008 but the same was dismissed.
3. The Applicant lodged a resentencing petition to the High Court at Mombasa *vide* Petition No. 18 of 2018 whereby the life sentence was substituted with a forty (40) year sentence on 30<sup>th</sup> March 2020.
4. The Applicant argues that the forty (40) year sentence is harsh and excessive since it fails to put into consideration that a human being's life expectancy is seventy (70) years and that the Applicant has been in lawful custody for the last twenty (20) years a period during which he has undergone sufficient rehabilitation.



5. The application herein was substantively and conclusively dealt with in Mombasa Petition No. 18 of 2018 where Ogola, J. substituted life imprisonment with 40 years on 30.3.2020 on account of the circumstances of the case.
6. In cognizant of the fact that the Applicant's trial took place when capital offences were not bailable and having perused the records in Mombasa High Court No. 7 of 2003 and confirmed that indeed the Applicant was not granted bail, the Applicant's prayer under Section 333(2) of the [Criminal Procedure Code](#) is allowed. The sentence of 40 years imprisonment in Mombasa Petition No. 18 of 2018 is ordered to run from 6<sup>th</sup> June 2003 when the Applicant was first arraigned in court.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,  
THIS 25<sup>TH</sup> DAY OF APRIL 2024**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**In the presence of: -**

Etropia- Court Assistant

Mr. Ngiri for the Respondent

Applicant present in person

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

