



REPUBLIC OF KENYA



**Onguti v Republic (Criminal Revision 101 of 2024)
[2024] KEHC 3839 (KLR) (23 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3839 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 101 OF 2024**

DR KAVEDZA, J

APRIL 23, 2024

BETWEEN

ALEX ACHUTI ONGUTI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The appellant was charged with two counts for the offence of defilement contrary to section 8(1) as read with section 8(3) of the [Sexual Offences Act](#), No. 3 of 2006. In the alternative, he two counts of the offence of committing an indecent act with a child contrary to section 11(1) of the [Sexual Offences Act](#) no. 3 of 2006. After a full trial, he was convicted on the alternative counts and sentenced to serve 10 years on each count. The sentences were to run consecutively.
2. Being aggrieved, he filed the present application seeking sentence review. The grounds raised are that trial court failed to consider his mitigation. He contended that he was a first offender, he is remorseful, he has been rehabilitated and he urged the court to consider the period spent in pre-trial custody. He prayed for a non-custodial sentence.
3. From the record, the applicant was charged and convicted by the subordinate court. Subsequently, he challenged his conviction on appeal before this court vide Milimani High Court Criminal Appeal No. 54 of 2020. Hon. Lady Justice Nzioka J dismissed the appeal for lacking in merit.
4. A judge has no jurisdiction to enquire into or review the propriety of the decisions of a fellow judge who is of concurrent jurisdiction as himself/herself. In our system of courts, which is hierarchical in nature, judges of concurrent jurisdiction do not possess supervisory jurisdiction over each other. This court cannot review an order of a court of concurrent jurisdiction as doing so would be tantamount to sitting as an appellate court on the judgment of Hon. Lady Justice Nzioka.
5. Otherwise, this court is bereft of jurisdiction to revise the sentence imposed.



Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 23RD DAY OF APRIL 2024

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D. KAVEDZA

JUDGE

In the presence of:

Ms. Gladys Omurokha for the Respondent

Applicant absent

Nelson Court Assistant

