



REPUBLIC OF KENYA



**Kungu v Republic (Miscellaneous Criminal Application  
E027 of 2024) [2024] KEHC 3821 (KLR) (22 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3821 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
MISCELLANEOUS CRIMINAL APPLICATION E027 OF 2024**

**DR KAVEDZA, J**

**APRIL 22, 2024**

**BETWEEN**

**MICHAEL KIMANI KUNGU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant filed a notice of motion application seeking resentencing. The application is supported by an affidavit 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 by the Chief Magistrate's court for the offence of robbery with violence in Kibera Magistrate's Court Criminal case no. 7418 of 2005. His appeal to the High Court no. 315 of 2007 was dismissed. Similarly, his appeal to the Court of Appeal being no. 686 of 2010 was also dismissed on 19<sup>th</sup> June 2020. That at the time, he was serving the death sentence which was commuted to 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 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 22<sup>ND</sup> DAY OF APRIL 2024**

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**D. KAVEDZA**

**JUDGE**

