



REPUBLIC OF KENYA



**Mugo v Republic (Criminal Revision E1248 of 2024)  
[2024] KEHC 11478 (KLR) (Crim) (30 September 2024) (Revision)**

Neutral citation: [2024] KEHC 11478 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL  
CRIMINAL REVISION E1248 OF 2024**

**K KIMONDO, J  
SEPTEMBER 30, 2024**

**BETWEEN**

**GEOFFREY KIMANI MUGO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Revision from the sentence in Makadara Criminal Case No. 5013  
of 2012 by H. M. Nyaga, Chief Magistrate, on 24th June 2019)*

**REVISION**

1. The applicant was adjudged guilty of defilement contrary to section 8 (1) as read with 8 (2) of the *Sexual Offences Act*. He was sentenced to imprisonment for 15 years.
2. He initially lodged an appeal in High Court Criminal Appeal No E109 of 2021 but withdrew it on 8<sup>th</sup> November 2021. The current revision only seeks grant of credit for the period spent in remand custody.
3. I called for the records of the subordinate court. Being a revision, and by dint of section 365 of the Criminal Procedure Code, no party has a right to be heard either personally or by an advocate before the High Court when exercising its powers of revision.
4. Section 333 (2) of the Code, obligates the sentencing court to take into account the period spent in remand custody. In *Ahamad Abolfathi Mohammed & Another v Republic*, Court of Appeal at Nairobi, Criminal Appeal 135 of 2016 [2018] eKLR, the learned judges of the Court of Appeal called for a “more meaningful” application of that provision of the law.
5. I am now satisfied of the following set of facts: The accused was arrested on 26<sup>th</sup> September 2012. Upon taking plea, he was granted cash bail of Kshs 100,000 but could not raise it. Following a number of applications for review, the amount was reduced to Kshs 20,000 on 27<sup>th</sup> March 2013. From the



original receipt, he only managed to post bail on 20<sup>th</sup> May 2013 and enjoyed his freedom until the date of judgment on 7<sup>th</sup> June 2019.

6. On 24<sup>th</sup> June 2023 he was sentenced to 15 years imprisonment. The trial court did not however credit him with any time spent in remand custody amounting to 236 days.
7. For all the above reasons and guided by section 333 (2) of the Criminal Procedure Code, I order that a period of 236 days spent in remand custody shall be deducted from the sentence. The original lower court file shall now be returned to Makadara Law Courts. The applicant and the Director of Public Prosecutions shall be immediately notified of this order.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30<sup>TH</sup> DAY OF SEPTEMBER 2024.**

**KANYI KIMONDO**

**JUDGE**

Ruling read in chambers in the presence of-

Mr. Edwin Ombuna, Court Assistant.

