



**Karithi v Republic (Criminal Revision E351 of 2023)
[2024] KEHC 13092 (KLR) (31 October 2024) (Judgment)**

Neutral citation: [2024] KEHC 13092 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL REVISION E351 OF 2023
EM MURIITHI, J
OCTOBER 31, 2024**

BETWEEN

ELOSY KARITHI APPLICANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. The applicant was convicted and sentenced to serve imprisonment for seven (7) years for the offence of attempted murder contrary to section 220 (a) of the [Penal Code](#).
2. She has filed an application dated 2/10/2023 seeking that:
 - a. This honorable court be pleased to exercise judicial authority, consider the mitigating factors and grant the applicant the prayers sought.
 - b. This honorable court be pleased to review the sentence awarded with a non custodial sentence in the above stated criminal case.
 - c. Spent
3. The application is premised on the grounds that the applicant is a single parent with 2 children and a first offender who greatly regrets her act and promises never to repeat the same. She has since reconciled with the complainant who is her niece, and begs for leniency in form of a non-custodial sentence.
4. The application was urged orally in court and a ruling reserved.



Determination

5. The probation officer has indicated in his sentence review report dated 18/12/2023 that, the applicant

“has learnt crocheting knitting work at the facility besides washing dishes at the kitchen. She has not received any formal education while in the prison. She has no cases of indiscipline and the prison authority referred her as a person of good demeanor. The inmate is positive to a possible release on a community based sentence. Her people are ready to receive her back to continue with her life in the open community. The victim is a niece to the offender. I recommend that she be placed on probation sentence and our office will endeavor in guiding, counseling and rehabilitating her in the community level. This is subject to the court’s discretion.”
6. According to the P3 form, the applicant, unprovoked, undeniably inflicted very life threatening injuries to the victim to wit multiple cut wounds on the scalp, 3-2 on the forehead and 1 on the parietal aspects of the head. The sentence of imprisonment for 7 years meted out to the applicant was very lenient owing to the untoward yet vicious attack meticulously on the head of an unarmed child by her aunt. The facts as admitted by the applicant were that,

“.....the accused, for no apparent reason, broke into the complainant’s bedroom door, entered the room and started slashing her head saying she wanted to kill her. The complainant pleaded with the accused, who is her aunty to spare her but she continued slashing her.”
7. Although the court is required under section 176 of the Criminal Procedure Code to promote reconciliation and settlement of cases of common assault and offences of personal nature, the offence should not be aggravated. While the probation officer highly recommends the early release of the applicant from prison, that recommendation is not binding on this court because it is merely a guide. The court is satisfied that the applicant already benefitted from the trial court’s leniency when she only got seven years for an offence which attracts a maximum sentence of life imprisonment.
8. It is urged that the complainant and the applicant have since reconciled but no affidavit has been sworn upon which this court can exercise its discretion. Suffice to state, the applicant has barely served a ¼ of her sentence having been sentenced the other day on 2/3/2023, and this court is dissuaded that she has genuinely reformed and is ready for reintegration to the community. The circumstances of this case require a deterrent sentence and, on the principle of *Wanjema v. R* (1973) EA 493, the court does not find any reason for interfering with the sentencing decision of the trial court.

Orders

9. Accordingly, for the reasons set out above, the application for Revision is declined.
10. File closed.
Order accordingly.

DATED AND DELIVERED THIS 31ST DAY OF OCTOBER, 2024.

EDWARD M. MURIITHI

JUDGE

Appearances:

Appellant/Applicant in person.



Mr. Masila for the Respondent.

