



**Kichago v Republic (Criminal Revision E024 of 2022)
[2023] KEHC 180 (KLR) (Crim) (24 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 180 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL REVISION E024 OF 2022
DO OGEMBO, J
JANUARY 24, 2023**

BETWEEN

DAVID CHACHA KICHAGO APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, David Chacha Kichago, has filed a chamber summons application herein on February 17, 2022. The same is for revision under section 333(2) of the *Criminal Procedure Code*. It seeks that the period that the applicant spent in remand custody be accounted for in the sentence. The respondent has opposed this application on grounds that the trial court considered such period spent in custody and noted same in the sentencing proceedings. Also that despite the fact that the offence carries a maximum sentence of 10 years imprisonment, the applicant was only sentenced to serve 5 years imprisonment.
2. I have considered this application and the submissions made to it by the 2 sides. Section 333(2) provides that in sentencing, the period that an accused person has spent in remand custody be accounted for.
3. The applicant faced a charge of defilement contrary to section 8(1) as read with section 8(2) of the *Sexual Offences Act*. He also faced and was convicted of the alternative charge of indecent with a child contrary to section 11(1) of the Act. The Act prescribes for a sentence of 10 years imprisonment.



4. I have considered the record of the sentence proceedings before the trial court on September 2, 2021. It is clear that he had been in custody since 2019, a period he urged to be considered. The court then noted;

“Having considered the fact that the accused has been in custody since 2019 (2 years), and his mitigation, the accused shall serve a period of 5 years in jail. Right of appeal 14 days.”

5. Clearly, the court in sentencing the applicant, accounted for the period he had spent in remand custody. This application filed herein on February 7, 2022, and based on section 333(2) of the [Criminal Procedure Code](#), therefore lacks merit. I dismiss the same wholly.

It is so ordered.

HON. D. O. OGEMBO

JUDGE

24TH JANUARY, 2023.

Court:

Ruling read out in open court in presence of the applicant (Nairobi Remand) and Ms. Oduor for Respondent.

HON. D. O. OGEMBO

JUDGE

24TH JANUARY, 2023

