



**Oruko v Republic (Criminal Revision E014 of 2023)
[2023] KEHC 17903 (KLR) (29 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17903 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL REVISION E014 OF 2023
RE ABURILI, J
MAY 29, 2023**

BETWEEN

MELKIZ OTIENO ORUKO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Melkiz Otiemo Oruko is a convict in Winam SPM Criminal Case No. E974 of 2021 wherein he was charged, convicted and sentenced to serve three years' imprisonment for the offence of obtaining by false pretences contrary to section 313 of the *Penal Code*.
2. The conviction and sentence were imposed on August 5, 2022 by Hon. C. N. Oruo, Senior Resident Magistrate.
3. The convict has not appealed the conviction and sentence. He has applied to this court vide application dated May 8, 2023 supported by his affidavit claiming that he is ailing in prison and diagnosed with hypertension and diabetes mellitus. That he has learnt his mistakes and promises not to repeat the same offence if given a chance to reintegrate back into the society. That this court should review the sentence with probation service order, community service order or any other order it deems fit.
4. The convict has annexed a copy of letter from Jootrh dated May 3, 2023 signed by Dr. Agwanda A. for the Chief Executive Officer.
5. I have considered the application and the circumstances under which the offence was committed. The sentence imposed on the convict is lawful. The convict is a trickster. He denied committing the offence despite being arrested on the spot having transferred money from the complainant's phone to his phone.



6. He has not told this court, if at all he is remorseful, where that money went. This court cannot trust the person of the convict herein who has no respect for property of other hard working Kenyans and wants to reap where he has not sown.
7. He is a young man aged 26 years old but he does not want to work and live a decent life. Despite the hypertension which is not anything new and so is diabetes which most people suffer from, he is a dishonest crook who must be punished because he is a dangerous person.
8. If he knew, and he ought to have known that obtaining money from the complainant was wrong, and that he was sick, he should have thought twice before stealing from the complainant and to date, he has not owned up on where he took the money.
9. This court will only consider his plea if he refunds the complainants the money that the accused stole from them.
10. I find no merit in the application for sentence revision which is hereby dismissed.
11. The file herein is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 29TH DAY OF MAY, 2023

R. E. ABURILI

JUDGE

