



JOW v Director of Public Prosecution (Miscellaneous Criminal Application E102 of 2022) [2023] KEHC 22815 (KLR) (27 September 2023) (Ruling)

Neutral citation: [2023] KEHC 22815 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CRIMINAL APPLICATION E102 OF 2022
HK CHEMITEI, J
SEPTEMBER 27, 2023**

BETWEEN

JOW APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTION RESPONDENT

RULING

1. The applicant was charged with the offence of incest and the trial court on 2nd December 2016 found him guilty and sentenced him to 25 years' imprisonment.
2. He appealed to this court and on 9th October 2020 this court dismissed the appeal but however reduced the period of imprisonment from 25 years to 10 years effective 2nd December 2016.
3. The application before this court is seeking to invoke the provisions of Section 333 of the *Criminal Procedure code*. In other words, the applicant seeks that this court considers the period he has spent in custody before the sentence.
4. Having looked at the findings of this court on appeal i do not think that the same is meritorious for the simple reason that this court in reducing the period from 25 years to 10 years must have taken into consideration the above factor.
5. In any case this court cannot sit on appeal against its own decision. The proper forum was for the applicant to move to the appellate court.
6. The application is otherwise dismissed.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 27TH DAY OF SEPTEMBER 2023.

H K CHEMITEI



JUDGE

