



**Chelangat v Republic (Criminal Revision E122 of 2023)  
[2023] KEHC 26727 (KLR) (20 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 26727 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL REVISION E122 OF 2023  
JK SERGON, J  
DECEMBER 20, 2023**

**BETWEEN**

**LAURA CHELANGAT ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Deputy Registrar of this Court placed file No. Kericho CMCCRC No.3329 of 2023 – Republic -vs- Laura Chelangat before this Court for perusal under sections 362 and 364 of the [Criminal Procedure Code](#).
2. Upon perusal of the proceedings, it is apparent that Laura Chelangat the applicant herein was arrested on December 8, 2023 and was held in custody until December 11, 2023 when she was taken to Court whereupon, she pleaded guilty to the charge of being in possession of alcoholic drinks for sale without a licence Contrary to Section 27 (1) (b) as read with section 27 (4) of the [Alcoholic Drinks Control Act](#) No 4 of 2010.
3. Hon Nekesa, learned senior resident magistrate convicted the Applicant on her own plea of guilty and subsequently sentenced her to pay a fine of Kshs 8,000/= in default to serve one month imprisonment. It would appear that the applicant has so far served 10 days of the default sentence of 30 days.
4. Under the offence the applicant was convicted section 27 (4) of the [Alcoholic Drinks Control Act](#) No 4 of 2010, and sentenced attracts a maximum sentence of a fine of Kshs 2 Million or imprisonment of a term of not more than five (5) years or both. Its apparent from the record that though the learned senior resident magistrate considered the mitigating factors, she however failed to take into account the number of days the applicant was held in custody before being taken to Court.



5. Had she taken that in account, she would have been persuaded to pronounce a lesser fine than the amount meted out. For the above reason, I think a reasonable fine in the circumstances of this case should have been Kshs.5,000/=.
6. Consequently, the fine imposed against the applicant of Kshs 8,000/= is set aside and is substituted with a fine of Kshs 5,000/= and in default to serve 14 days imprisonment. The new sentence to run from the date of sentence i.e. on December 11, 2023.
7. In view of the new sentence, it is clear that the applicant has so far served 10 days of the default sentence. The applicant should serve the remaining default of 4 days in prison and should be released upon completing serving the four (4) days.

**DATED, SIGNED AND DELIVERED THIS 20TH DAY OF DECEMBER, 2023.**

.....

**J.K. SERGON**

**JUDGE**

