



**CKW v Republic (Miscellaneous Criminal Application
E095 of 2021) [2022] KEHC 11838 (KLR) (31 March 2022) (Ruling)**

Neutral citation: [2022] KEHC 11838 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
MISCELLANEOUS CRIMINAL APPLICATION E095 OF 2021
GWN MACHARIA, J
MARCH 31, 2022**

BETWEEN

CKW APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, by chamber summons, filed in court on April 13, 2021 prays that the period be remained in remand custody be taken into account to constitute part of the sentence.
2. He was charged at Engineer Law Courts with Criminal Case No 55 of 2018 with attempted incest contrary to section 20 (2) of the Sexual Offences Act No 3 of 2006. The particulars of the offence were that on the September 28, 2018 at around 2200 hours in Kipipiri Sub-county within Nyandarua County, being a male person, he attempted to cause his penis to penetrate the vagina of BW who was to his knowledge his daughter aged 12 years.
3. The applicant was found guilty accordingly and on September 16, 2020 sentenced to serve 8 years' imprisonment. In passing the sentence the learned trial magistrate indicated that he had taken into account the 2 years' period the applicant had been in remand. section 20 (2) of the Sexual Offences Act provides that a person found guilty therein is liable to a minimum mandatory sentence of 10 years. Thus, the learned trial magistrate having reduced this sentence with 2 years means that he had taken into account the two years period the applicant was in remand custody. That was put in explicit terms in the sentence.
4. Accordingly, this is an application without merit and the same is hereby dismissed.

DATED AND DELIVERED THIS 31ST DAY OF MARCH, 2022.

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G. W. NGENYE-MACHARIA

JUDGE

In the presence of: -

Applicant in person

Ms. Maingi for the Respondent.

