



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Langat (Criminal Case E010 of 2021)
[2022] KEHC 10096 (KLR) (29 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 10096 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE E010 OF 2021**

**RL KORIR, J
JUNE 29, 2022**

BETWEEN

REPUBLIC PROSECUTION

AND

MATHEW LANGAT ACCUSED

RULING

1. The Applicant was charged with the offence of murder contrary to section 203 as read with Section 204 of the *Penal Code*. He was alleged to have murdered one Benard Kiprono Yegon. His trial proceeded before Muya J. who heard both the prosecution and defence case, while Ongeru J. delivered Judgment in which she convicted the Applicant as charged. Subsequently, I took over the case after hearing mitigation by the parties, sentenced the Applicant to 18 years' imprisonment on 27/1/2021.
2. On February 4, 2021, the Applicant filed the present application seeking that the period of 3 years which he spent in pre-trial custody be included in his sentence. He stated that "the honorable trial judge failed to establish that sentencing I the petitioner to 18 years' imprisonment without taking into consideration the 3 years I spent in remand was not only ultra vires but also a misdirection in law."
3. When the application came up for direction this court directed the parties to file written submissions. on the return date however, the parties had not complied and instead sought the indulgence of the court to submit orally.
4. The Applicant submitted that he wished the court to reduce his sentence by the duration he had spent in remand. Prosecution Counsel submitted that the Applicant was convicted of murder and sentenced to 18 years' imprisonment which in his view was lenient. He submitted that the Judge in sentencing had taken into consideration the pre-trial custody. The Applicant in his rejoinder stated that he only prayed for the leniency of the court.



5. I have perused the trial file. All three Judges who handled the trial are courts of equal jurisdiction. This court therefore has no jurisdiction to revisit the sentence meted out on the Applicant.
6. For the information of the Applicant who is acting in person however, I think it is important to draw his attention to the sentence. At paragraph 11 and 12 of the sentence delivered on January 27, 2021, the court stated: -
 - “ 11. I have also taken into account the fact that the Accused has spent three years in pre-trial custody and the fact that he was a first offender and has expressed remorse.
 12. Having taken all the above factors into consideration, I sentence the Accused to 18 years’ imprisonment.”
7. It is clear to this court therefore that the court did take into consideration the period spent in pre-trial custody and cannot revisit the same. The Applicant’s only recourse now is to the court of appeal.
8. The application is thus dismissed
9. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 29TH DAY OF JUNE, 2022.

R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of Mr. Muriithi for the State, Applicant in person and Kiprotich (Court Assistant)

