



REPUBLIC OF KENYA



**Malasre v Republic (Criminal Revision E007 of 2022)
[2022] KEHC 12816 (KLR) (8 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12816 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL REVISION E007 OF 2022
RE ABURILI, J
AUGUST 8, 2022**

BETWEEN

FRED OMONDI MALASRE APPLICANT

AND

REPUBLIC RESPONDENT

(Being an Application for revision of sentence, arising from conviction and sentence in Siaya Chief Magistrates' Court in Criminal Case No. 36 of 2020 delivered on 14/10/2021 by Hon. J.O. Ong'ondo, Senior Principal Magistrate)

RULING

1. The convict Fred Omondi Malasre is aged 30 years old. He was convicted of the offence of grievous harm contrary to section 234 of the *Penal Code* and Assault causing actual harm contrary to section 251 of the *Penal Code*. He was sentenced to serve 3 years imprisonment on the charge of grievous harm and 1 year imprisonment for assault respectively. Both sentence were to run concurrently. This was on October 14, 2021. There is no record that he appealed against conviction or sentence imposed.
2. I have considered the Sentence Review Report filed on 2/8/2022 by Lilian Odongo, Probation Officer Siaya. The same is negative on the suitability of the convict for non-custodial sentence.
3. It is alleged that the convict assaulted the complainant and even attacked the complainant during the time he (the convict) was on bond pending trial.
4. His father too has disowned him saying he does not want to see the convict in the home and that he claims not to be the convict's biological father.
5. The convict is reported to be remorseful but that he indulges in excessive alcohol and bhang intake.



6. It is clear that the convict has no fixed abode where he can successfully serve non-custodial sentence. In the premises, I order that the convict Fred Omondi Malasre shall serve and complete his prison term as he has been found unsuitable to serve non-custodial sentence.

7. File closed.

8. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 8TH DAY OF AUGUST, 2022

R.E. ABURILI

JUDGE

