



REPUBLIC OF KENYA



**KENYA LAW**  
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**Munguti v Republic (Criminal Revision E019 of 2022)  
[2022] KEHC 15588 (KLR) (Crim) (22 November 2022) (Ruling)**

Neutral citation: [2022] KEHC 15588 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL REVISION E019 OF 2022  
DO OGEMBO, J  
NOVEMBER 22, 2022**

**BETWEEN**

**JANUARIES NTHENGE MUNGUTI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant Januaries Nthenge Munguti, has moved this court by way of a Notice of Motion Application dated February 14, 2022. Same is brought under Article 50(2) and section 362 and 364 of the *Criminal Procedure Code*. The main prayer in this application is at Paragraph 4, that:-  
  
“That this Honourable court do exercise its discretion in revising the sentence in 3 counts to non-custodial sentence with option of affordable fine”
2. The affidavit has attached a sworn affidavit in support of this application in which he raises various factors of mitigation. That he is a married man with 2 children, and a sole breadwinner with elderly parents. He also expressed remorse. He has pleaded for a non-custodial sentence or an option of fine.
3. Ms. Akunja for the state did not oppose the application of the applicant in view of the nature of the charges and sentences.
4. I have considered the submissions of the applicant and the Respondent. I have also perused the record of the proceedings of the lower court. The applicant faced 1 count of obtaining money by false pretences contrary to section 313 of the penal code (a sum of Kshs.2.8million) and 2 counts of making a document without authority contrary to section 357(a) of the *Penal Code*.



5. On February 10, 2022, he was sentenced to serve 2 years imprisonment on count 1 and 18 months imprisonment on both counts II and III. The sentences were ordered to run concurrently. The sentences provided for 2 offences the applicant faced are 3 years imprisonment for count I and upto 7 years imprisonment for both counts II and III. The trial court obviously took the aggravating factors in the case before passing the sentence.
6. In my view the sentence passed by the trial court was both legal and proper in the circumstances. I therefore find no reason to interfere with the same. I therefore find this application of the applicant lacking in merit. The same is wholly dismissed.

Orders accordingly.

**HON. D. O. OGEMBO**

**JUDGE**

**22<sup>ND</sup> NOVEMBER 2022**

**Court:**

Ruling read out in court (on-line) in presence of the applicant (Nairobi Remand) and Ms. Ntabo for Respondent.

**HON. D. O. OGEMBO**

**JUDGE**

**22<sup>ND</sup> NOVEMBER 2022**

