

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NO. 238 OF 2019

STEPHEN ENZOYA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The Applicant was charged with attempted arson contrary to **Section 333 of the Penal Code**. He attempted to burn the house he had rented belonging to the complainant, Jackline Muharia on 1st May, 2018.
2. His plea that he committed the offence when he was drunk cannot be an excuse. If he knows that alcohol compels him to commit an offence, he must desist from it.
3. Under Section 333 of Penal Code, the offence carries a penalty of up to 14 years imprisonment. Hence, the penalty was reasonable in the circumstances.
4. I however partially allow the application with an order that the period the Applicant was in remand prior to the sentencing shall be considered to constitute part of the sentence. Hence, I maintain the sentence but the same shall start running from 1st May, 2018

Dated and Delivered at Nairobi This 26th day of November, 2019.

G.W.NGENYE-MACHARIA

JUDGE.

In the presence of:

1. *Applicant in person.*
2. *M/s Akunja for the Respondent.*