



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Nderitu v Republic (Criminal Revision E006 of 2024)
[2025] KEHC 1487 (KLR) (21 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1487 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL REVISION E006 OF 2024
MA ODERO, J
FEBRUARY 21, 2025**

BETWEEN

MOSES GITHAIGA NDERITU APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Moses Githaiga Nderitu seeks review of the sentence which was imposed upon him by the lower court.
2. The Applicant was charged in CMCC No. E972 of 2021 with the offence of Assault Causing Grievous Harm Contrary To Section 234 Of The *Penal Code*. The particulars of the offence were that
“On 29th day of March 2020 at 11.00 am [at] Kamaguru Village, Gathuthi Sub-Location, Tetu Sub-County, unlawfully did grievous harm to Samuel Mwangi Checha”
3. Following the trial in the Lower Court the Applicant was convicted Vide the judgment delivered on 13th December 2022 and on 4th January 2023 the Applicant was sentenced to serve seven (7) years imprisonment without the option of a fine. The Applicant has now filed this application seeking review of his sentence.
4. The Power of the High Court to review sentences is set out in Section 362 of the *Penal Code*, Cap 63 Laws of Kenya which provides as follows:-
“The High Court may call for and examine the record of any criminal proceedings before any subordinate Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings in any such subordinate court.”



5. The orders which the High Court may make upon revision are provided by Section 364 of the [Penal Code](#).
6. The Applicant was subjected to a trial at which witnesses were called and he was granted an opportunity to cross-examine all the prosecution witnesses.
7. The Applicant was himself granted an opportunity to give his defence and to call witnesses and in fact the Applicant called two (2) witnesses in his defence.
8. I find that the trial was conducted in an open transparent and procedural manner and that all the rights due to an accused person were accorded to the Applicant.
9. Following his conviction the Applicant was allowed an opportunity to mitigate. The trial magistrate then called for a pre-sentencing report which report was submitted by the Probation Officer
10. Section 234 of the [Penal Code](#) provides for the sentence for the offence of causing Grievous Bodily Harm as follows:-

“ Any person who unlawfully does grievous harm to another is guilty of a felony and is liable to imprisonment for life.”
11. In sentencing the Applicant the learned trial magistrate made the following observations

“I have considered the pre-sentence report and the accused person’s mitigation. Although I empathise with him the offence in question is of a very serious nature and carries upto life sentence. The injuries occasioned to the complainant are permanent injuries that he will have to carry for the rest of his life. The accused person is sentenced to 7 years imprisonment. Right of Appeal 14 days.”
12. From the above it is clear and indeed I find that the trial court took into consideration all relevant matters such as nature of offence, mitigation offered by the Applicant, the impact of the offence on the Victims life as well as the pre-sentence report.
13. The sentence imposed was a lawful sentence imposed by a court of competent jurisdiction. Given the circumstances of the offence and the fact that the actions of the Application inflicted a permanent maim on the victim; I find that the offence called for a custodial sentence. In my view the sentence imposed by the trial court was appropriate. I am not inclined to interfere with the same.
14. Finally I find no merit in this application for review of sentence. The same is dismissed in its entirety and the sentence imposed by the trial court is confirmed.

DATED IN NYERI THIS 21ST DAY OF FEBRUARY 2025

MAUREEN A. ODERO

JUDGE

