



REPUBLIC OF KENYA



**KENYA LAW**  
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**Chepkurui v Republic (Criminal Revision E018 of 2025)  
[2025] KEHC 3523 (KLR) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3523 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL REVISION E018 OF 2025  
JK SERGON, J  
MARCH 20, 2025**

**BETWEEN**

**EDNAH CHEPKURUI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant was charged with two counts of being in possession of alcoholic drinks contrary to section 7(1)(b) as read with section 62 of the *Alcoholic Drinks Control Act* No. 4 of 2010. The applicant was convicted on her own plea of guilt and on 11th November, 2024 sentenced to a fine of Kshs. 40,000/= or in default to serve 5 months for the first count and sentenced to a fine of Kshs. 30,000/= or in default serve 5 months for the second count by Hon. F. Nekesa in Kericho Criminal Case No. E2989 of 2024 Republic v Ednah Chepkurui.
2. The applicant has moved this court pursuant to the provisions of Sections 362, 364 and 367 of the *Criminal Procedure Code* Cap 75 Laws of Kenya urging this court to review her sentence. The Applicant stated that she had served 3 months of her sentence and that she had reformed fully. She stated that she is a young mother and the sole breadwinner and that her family has been living in hardship given her continued incarceration.
3. The matter came up for inter-partes hearing, on one part, the applicant urged this court to consider her application and review her sentence. On the other part, the learned prosecutor vehemently opposed the application contending that the offence is rampant and that the sentence is proper and therefore the revision should be dismissed.
4. I have considered section 348 of the *Criminal Procedure Code* which provides that; “No Appeal shall be allowed in the case of an accused person who has pleaded guilty and has been convicted on that plea by a subordinate court except as to the extent or legality of the sentence.” It is clear from the



above quoted excerpt that the Applicant has a right of Appeal as against the sentence. The Applicant opted to file this Revision instead of challenging the Order on sentence by way of an Appeal. The Law does not pursue a party who is entitled to challenge the order on conviction or sentence on Appeal to personally approach the Court for revision. It would appear from the provision of Sections 362 and 364 of the Criminal Procedure Code that the Court may act suo moto and may be prompted by another person or body other than the convict to exercise its power of revision. Section 364(5) of the Criminal Procedure Code provides that; “When an appeal lies from a finding, sentence or order and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.”

5. In the case *Martin Mavuti Kituyi v Republic HCCR*. Revision No. 27 of 2013 the court rendered itself as follows; “... the very nature of revision as a discretionary remedy explains the policy underpinnings of Section 364(5) of the Criminal Procedure Code; that revision should not be a substitute for an appeal whatsoever or insisted upon by a party who has not filed an Appeal where one was provided for. Revision primarily serves to put right instances where a finding, sentence, order or proceedings of a lower court are tainted by incorrectness, impropriety, illegality or irregularity...”
6. Having personally approached this court to prompt this court to exercise its supervisory power of revision, the applicant breached the Provisions of Section 364 (5) of the Criminal Procedure Code. I find the revision to be incompetently before this court. The same cannot be entertained by this court. I hereby issue an order striking out the revision.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 20TH DAY OF MARCH, 2025**

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**J.K. SERGON**

**JUDGE**

In the Presence of:-

C/Assistant – Rutoh

Prosecutor – Masisa

Applicant – Present in Person

