



**Kibet v Republic (Miscellaneous Criminal Application
E055 of 2022) [2025] KEHC 3107 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3107 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
MISCELLANEOUS CRIMINAL APPLICATION E055 OF 2022**

JK SERGON, J

MARCH 6, 2025

BETWEEN

VICTOR CHEPKWONY KIBET APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was sentenced to 10 years imprisonment for the offence of Defilement Contrary to Section 8 (1) as read with section 8 (3) of the [Sexual Offences Act](#) No. 3 of 2006 vide Sexual Offences File No. 1 of 2018 by Hon. E.W. Karani-RM on 11.3.2020.
2. The Applicant has made an application under section 333 (2) of the [Criminal Procedure Code](#) CAP 75 for inclusion of the period he was in custody prior to his sentence of 8 years imprisonment.
3. The prosecution opposed the said application, the learned prosecutor contended that the trial court considered the time spent in custody during sentencing and therefore the instant application ought to be dismissed.
4. This court has perused the record and finds that the applicant was arrested and arraigned in court on 2.1.2018 and given a bond of Kshs.200,000/= and 1 surety of similar amount, the applicant was released on bond, however, the bond terms were cancelled severally on account of interference with witnesses bond and absconding court. At the time the applicant was sentenced on 11.3.2020, he had been in custody for over a year.
5. This Court has perused the proceedings of the Trial Court of which gave rise to the sentence meted out against the applicant. It is apparent from the record that the trial court noted that the Applicant spent in remand pending trial. While pronouncing the sentence of 10 years imprisonment, the Trial Magistrate did not specifically state that she took into account the period the Applicant spent in remand. Pursuant to the provisions of Section 333 (2) of the [Criminal Procedure code](#), this Court



hereby orders that the period of two (2) and two (2) months be deducted from the sentence of 10 years pronounced by the Trial Court.

6. Consequently, the Applicant herein namely: Victor Chepkwony Kibet should instead serve Seven (7) years (10) months imprisonment from the date of sentence by the Trial Court i.e. March 11, 2020.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 6TH DAY OF March, 2025.

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J.K. SERGON

JUDGE

In the presence of:

C/Assistant - Rutoh

Prosecutor – Ogutu

Applicant – Present in Person

