



REPUBLIC OF KENYA



KENYA LAW
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**Loinai v Republic (Criminal Revision E100 of 2024)
[2025] KEHC 2374 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2374 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL REVISION E100 OF 2024
RB NGETICH, J
MARCH 6, 2025**

BETWEEN

KANYAKERA LOINAI APPLICANT

AND

REPUBLIC PROSECUTOR

RULING

1. The Applicant Kanyakera Loinai was charged with 3 counts as follows:-

Count 1 is the offence of Arson contrary to section 333(a) of the *Penal Code*. The particulars of the offence is that the accused was charged on the 4th day of August, 2021 at Chou Sub-Location, Chepellow Location in Tiaty East Sub-County within Baringo County wilfully and unlawfully set fire to a grass thatched dwelling house valued at Kenya Shillings Seventy Thousand (KShs. 70,000/=) belonging to Cheposangai Loinai.

Count II is the offence of threatening to kill contrary to section 223(1) of the *Penal Code*. The particulars of the offence is that on the 26th day of April, 2021 at Chou Sub-Location, Chepellow Location in Tiaty East Sub-County within Baringo County without lawful excuse uttered the words to wit "It's today when I will decide where your life will be" to Cheposangai Loinai which were meant to cause fear to the said Cheposangai Loinai.

Count III is the offence of stealing stock contrary to section 278 of the *Penal Code*. The particulars of the offence is that on the 11th day of December, 2020 at Chou Sub-Location, Chepellow Location in Tiaty East Sub-County within Baringo County stole six (6) cows and twenty (20) goats all valued at Kenya shillings Two Hundred and Forty Thousand (KShs.240,000/=) the property of Cheposangai Loinai.

2. The Applicant denied the charge and the case proceeded for full trial. By judgment delivered on 1/12/2021, the applicant was convicted for the 3 counts and on 6/12/2021 the applicant was sentenced



to serve 7 years imprisonment for count 1, 3 years imprisonment for count 2 and 5 years imprisonment for count 3. The sentences in count 1 and 2 were to run concurrently and the sentence in count 3 to run consecutively with count 1 and count 2.

3. The applicant seeks review of the remaining sentence to non-custodial sentence. I called for presentence report which was filed on 6th February 2025.

Social Inquiry Report.

4. From the report, the applicant is aged 42 years. He had no formal education. The complainant is the biological mother of the applicant who is elderly and extremely poor. From the report the applicant torched his mother's grass thatched house which was built for her by the community.
5. From the report, the applicant joined a gang of youth in the community which terrorized the community members and is well known by local leaders for criminal activities and at one incident, he sustained gun shot from community security. He is confirmed single by village elder though he alleges to be married.
6. The victims is still bitter and fear that the applicant may kill her if released. She stated that he tried rape her and burn her in the house. She went ahead to say she will curse him. She is opposed to review of sentence.
7. The local administration also oppose review of sentence as they term applicant a dangerous person within the community. He is described as repeat offender. He says the applicant narrowly escaped death after being shot in one instant.
8. All community members interviewed consider applicant as a threat. They also say it will be difficult to supervise him out of prison as he is single person.

Determination.

9. I have considered sentiments by the victim, the community and the local administration. From the sentiments given, the applicant is a repeat offender. He is a threat to his own to his own mother and to the community at large. In view of the above, I do not find applicant suitable for non-custodial sentence.
10. Final Orders:-

Application for revision of sentence is hereby dismissed.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 6TH DAY OF MARCH 2025.

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RACHEL NGETICH

JUDGE

In the presence of:

Ms. Bartilol for State.

Applicant present.

Elvis/Momanyi – Court Assistants.

