



**Loseria v Republic (Miscellaneous Criminal Revision
E102 of 2024) [2025] KEHC 2628 (KLR) (5 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2628 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
MISCELLANEOUS CRIMINAL REVISION E102 OF 2024**

RB NGETICH, J

MARCH 5, 2025

BETWEEN

LOPHONO LOSERIA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Lophono Loseria was charged with the offence of stealing stock contrary to section 278 of the *Penal Code*. The particulars of the charge were that the applicant on the 9th day of February, 2024, at Karuwen village in Chemolingot- Tiaty West sub-county within Baringo County, jointly with others not before court stole twenty-five (25) goats and Ten (10) sheep valued at Kshs.210,000/= (two hundred and Ten thousand) the property of Kamarwa Simon. The Applicant pleaded guilty to the charge where he was then convicted on his own plea of guilty. On 23rd February,2024 he was sentenced to serve 4 years imprisonment.
2. The Applicant has now approached this court seeking review of sentence so as to allow him complete the remaining sentence out of custody on ground that he is remorseful, first offender. He prayed for leniency from this court. When the matter came up for hearing on the 5th November,2024, the Applicant informed court that he is remaining with 23 months to serve. The court directed that a social inquiry report to be filed.

Social Inquiry Report.

3. From the report, the applicant dropped out of school in class 4 due to the fact that his father developed a mental illness. He started working as a herder and in the year 2018, he worked as casual laborer up until the time of his arrest. He is single and says he has a child. The applicant regrets the offence and says his mistake was to tell the co-accused where the homestead of the victim was. He says he has reconciled with the victim and while in prison he has trained in painting Grade III level.



4. The victim is opposed to review of sentence on ground that the applicant initially showed interest in reconciliation and compensation and thereafter went silent which demonstrate lack on sincerity.
5. The local administration stated that the applicant led the thief to the victim's home to go and steal and they deem him dangerous as he is identifying targets for stock theft in the community and prayed that he completes sentence in prison so that it may serve to deter other would-be offenders in the community.
6. On 6th February,2025, the prosecution counsel Ms. Bartilol submitted that the pre-sentence report is negative, the sentence imposed is lenient and the Applicant is not remorseful. She submitted that the victim has not been compensated and there is no reason to interfere with the sentence.

Determination.

7. The application herein invokes the revisional jurisdiction of this court which gives the court powers, in appropriate cases, to review and vary any orders, decision or sentence passed by the trial court if the court was satisfied that the impugned order, decision or sentence was illegal or was a product of an error or impropriety on the part of the trial court. If the court was so satisfied, the law mandated it to make appropriate orders to correct the impugned order, decision or sentence and align it with the law. The above is the import of Section 362 as read with Section 364 of the *Criminal Procedure Code*.
8. The objectives of sentencing are outlined in the 2023 *Judiciary of Kenya Sentencing Policy Guidelines* at page 15, paragraph 4.1 as follows:

Retribution: To punish the offender for his/her criminal conduct in a just manner.

Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.

Rehabilitation: To enable the offender reform from his criminal disposition and become a law-abiding person.

Restorative justice: To address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims', communities' and offenders' needs and justice demands that these are met. Further, to promote a sense of responsibility through the offender's contribution towards meeting the victims' needs.

Community protection: To protect the community by incapacitating the offender.

Denunciation: To communicate the community's condemnation of the criminal conduct."

9. I have considered the social inquiry report, specifically the sentiments of the victim who strongly oppose review of sentence on ground that there has not been compensation and applicant's family have not taken any steps to compensate him. The local administration also opposed review of sentence on ground that the applicant identified victims to stock thieves and there is need to let the applicant complete sentence so that it may serve to deter other would-be offenders in the community. Upon considering sentiments captured above, I find this is not suitable case for review of sentence. I therefore decline application to review sentence.
10. Final Orders: -
Application for review of sentence is hereby dismissed.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 5TH 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.

