



**Ocharo v Republic (Miscellaneous Criminal Application  
E036 of 2022) [2025] KEHC 2640 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2640 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
MISCELLANEOUS CRIMINAL APPLICATION E036 OF 2022**

**JK SERGON, J**

**MARCH 6, 2025**

**BETWEEN**

**DANCAN OMONDI OCHARO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was sentenced to 8 years imprisonment for the offence of Grievous Harm Contrary to Section 234 of the Penal Code CAP 63 vide CMC Criminal Case No. 5212 of 2019 by Hon. E.W. Karani-RM on 18.12.2020.
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 on 19.11.2019, he was arraigned in court on 20.11.2019 and given a bond of Kshs.100,000/= and 1 surety of similar amount, however, there is no indication that the applicant was released on bond. The applicant was sentenced on 18.12.2020, he was therefore in custody for a period of 1 year and 1 month during trial.
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 one (1) and one (1) month be deducted from the sentence of 8 years pronounced by the Trial Court.

6. Consequently, the Applicant herein namely: Duncan Omondi Ocharo should instead serve Seven (6) years (11) months imprisonment from the date of sentence by the Trial Court i.e. 18<sup>th</sup> December, 2020.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 6<sup>TH</sup> DAY OF MARCH, 2025.**

.....

**J.K. SERGON**

**JUDGE**

In the presence of:

C/Assistant - Rutoh

Prosecutor – Ogutu

Applicant – Present in Person

