



**Naliaka v Republic (Criminal Revision E326 of 2024)
[2025] KEHC 4383 (KLR) (4 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4383 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E326 OF 2024**

RN NYAKUNDI, J

APRIL 4, 2025

**IN THE MATTER OF TIME SPENT UNDER REMAND CUSTODY AS PER
THE PROVISIONS OF SECTION 333(2) OF THE CAP 75 LAWS OF
KENYA IN RELIANCE TO ARTICLE 48 OF THE CONSTITUTION OF
KENYA 2010**

AND

**IN THE MATTER ENFORCEMENT OF THE BILL OF RIGHTS UNDER
ARTICLE 22(1) AND THE MATTER OF CONTRAVENTION OF ARTICLE
27(1)(2)(4), 51(1), 24(1), 165(3) AND ARTICLE 258(1) OF THE
CONSTITUTION OF THE REPUBLIC OF KENYA 2010**

BETWEEN

MILLICENT NALIAKA PETITIONER

AND

REPUBLIC RESPONDENT

RULING

1. Before me for determination is the Petitioner’s application filed on 14th August, 2024 in which the petitioner seeks sentence reduction/review on grounds that she had spent 10 months in remand custody, a period that was never factored in when computing the sentence she is serving of 18 months for the offence of stealing contrary to section 268 as read with section 275 of the *Penal Code*.
2. In the affidavit in support she deposed that she has spent 10 months in custody and that the court should invoke the provisions of section 333(2). She further urged the court to find that her



fundamental rights to equal protection, equal benefit and equal treatment as provided for under the Constitution under Art. 27(1)(2)(4).

3. The gist of this application is about the 10 months pre-trial detention period before the applicant's case was heard on the merits and finally convicted, sentenced to 18 months imprisonment on 5th December, 2023. The trial was through a summary proceedings provided for under Section 137 a-o of the Criminal Procedure Code which details protocols on plea bargain agreements. This court has revisited the trial court record in criminal case No. E1937 of 2022 and is of the considered view that the applicant has already served the period imposed by the learned trial magistrate and there is no subject matter for this court to exercise jurisdiction pursuant to section 333(2) of the Criminal Procedure Code. The application is therefore dismissed for want of merit under Section 382 of the Criminal Procedure Code.
4. It is so ordered.

SIGNED, DATE AND DELIVERED AT ELDORET THIS 4TH DAY OF APRIL 2025.

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R. NYAKUNDI

JUDGE

