



**Kamoche v Republic (Criminal Revision E213 of 2024)  
[2025] KEHC 6210 (KLR) (19 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6210 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
CRIMINAL REVISION E213 OF 2024  
DKN MAGARE, J  
MAY 19, 2025**

**BETWEEN**

**PAUL MBURU KAMOCHÉ ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This is a ruling over a Notice of Motion application dated 22.07.2024, seeking to review the sentence imposed by on D K Matutu. The matter is a review from Múkûrwe'inî PMCC E188 of 2020. I had considered an earlier Application in Nyeri Criminal Revision No. E 069 of 2024. On the 12<sup>th</sup> day of June, 2024, I found no merit in the application for review. Only an appeal could change that. This court cannot sit on appeal from its own decision.
2. The applicant was charged with biting by false pretences. He is now keen on obtaining a review under false pretences. The applicant has not even disclosed that he also filed E073 OF 2023. This court is not a repository of remedies ad infinitum.
3. There is no basis for reviewing the judgment. If the applicant had anything worthwhile, he should have proceeded to the court of appeal, if there was any chance to do so, after my last decision. The court is functus officio. The Applicant has two options, though the first is more reliable. First, to await his fate and serve the sentence as given. Secondly, petition the President under Article 133 of the Constitution, which provides as follows:
  1. On the petition of any person, the President may exercise a power of mercy in accordance with the advice of the Advisory Committee established under clause (2), by-
    - a. granting a free or conditional pardon to a person convicted of an offence;



- b. postponing the carrying out of a punishment, either for a specified or indefinite period;
    - (c) substituting a less severe form of punishment; or
    - (d) remitting all or part of a punishment.
  - (2) .....
  - (3) ...
  - (4) The Advisory Committee may take into account the views of the victims of the offence in respect of which it is considering making recommendations to the President.
4. The court finds no justifiable basis to interfere with the sentence imposed in this matter. The Application for review of the sentence dated 18.2.2025 in Múkûrwe'inî. SPMCRC No. E188 of 2020 is hereby dismissed as the court is functus officio.
  5. The applicant was arrested on 18.06.2020 and released on cash bail, through receipt no. 0111897 dated 18.06.2020 for Ksh 150,000/= . However, he absconded bail and was re-arrested on 3.5.2023. Therefore, he did not have days spent in custody from the date of by dint of section 333(2) of the Criminal Procedure Code. There is no merit whatsoever in the review. The applicant must condition himself to conclude his jail time in peace.
  6. The Application dated 22.07.2024 has no merit whatsoever. It is accordingly dismissed. The Application for review of the sentence dated 22/07.2024 from Múkûrwe'inî. SPMCRC No. E188 of 2020 is hereby dismissed for lack of merit and as the court is functus officio as regards non-custodial sentence. However, the proceedings indicate that that the applicant absconded bond and was re-arrested on from 3.05.2023. He remained in custody up to now. Therefore, the sentence is to run from 3.05.2023 when the applicant was re-arrested.

#### **Determination.**

7. The court makes the following orders: -
  - a. The Application for review of the sentence dated 22/07.2024 from Múkûrwe'inî. SPMCRC No. E188 of 2020 is hereby dismissed save that sentence is to run from 3.05.2023 when the applicant was re-arrested.
  - b. The file is closed.

**DELIVERED, DATED AND SIGNED AT NYERI ON THIS 19<sup>TH</sup> DAY OF MAY, 2025**

Ruling delivered through Microsoft Teams Online Platform.

**KIZITO MAGARE**

**JUDGE**

In the presence of:-

Applicant present

Mr. Kimani for the Respondent

