



**Wambui alias Ngiege v Republic (Criminal Revision
E398 of 2024) [2025] KEHC 5958 (KLR) (13 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5958 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E398 OF 2024
RN NYAKUNDI, J
MAY 13, 2025**

BETWEEN

DANIEL GITHERA WAMBUI ALIAS NGIEGE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. An Applicant is charged with an offence of Robbery with violence contrary to Section 296(2). The particulars of the offence are that on the 28th day of August, 2023 at Kondoo farm in Kesses sub-county within Uasin Gishu County, while armed with a dangerous weapon namely a panga robbed Jecinta Wangari Maina of her mobile phone make HEL 5081 valued at Kshs 2000/= and at the time of the said robbery used actual violence to the said Jecinta Wangari
2. The Applicant went through a plea-bargaining agreement which comprise the following facts: On the 28th day of August 2023 at about 0800hrs, the complainant was heading to her farm and on reaching at Dr. Sang farm while carrying a kiondo on her back and inside the kiondoo she has a panga and bean seeds that she was going to plant. She was suddenly accosted by an unknown mal adult from behind, who removed the panga and closed the mouth of the complainant. The accused person held the panga on her neck and warned her not to scream as he could kill her. He pushed her down and managed to snatch her mobile phone make ITEL valued at Kshs 2000/= and ran away. The complainant screamed for help and members of the public who were passing by came to her rescue. The complainant later reported the matter at Tarakwa police station. Later the complainant visited the scene and she found a huge crowd of people and the accused person who was being subjected to mob justice. The complainant was shown her mobile phone which she was able to positively identify and was informed that the accused was arrested and escorted to Tarakwa police station while the complainant visited burnt forest hospital for treatment. Ap3 form was duly filled and consequently the accused person was charged with the offence herein.



3. In this application I am guided by the principles in *Mbarapara v The State* 2017 (2) ZLR 126 at 129C-D wherein Mafusire J Made the following observation: “ Sentencing is undoubtedly a complex exercise. It is a balancing act between the interest of the accused and those of society. From time to time jurists have espoused brilliant philosophies around sentencing. Guideline have been developed. The legislature sometimes weighs in with mandatory minimum sentences for certain offences. However, there are certain fundamentals in all these philosophies or principles. One of them is that the penalty must fit the crime. The interests of the offender must be balanced against those of justice. It is not right that someone who has wronged society should go scot free, or escape with a trivial sentence. But at the same time he should not be punished beyond what his misdeed deserves. Punishment should be less retributive and more rehabilitative. In addition sentencing expert Shain posits the following on this principle.”

“ Rehabilitation manifestly constitutes one of the important goals or purpose of punishment. As a society we would like the correctional experience to be beneficial and hope that it will bring the offender to his (or her) senses and act to socialize and rehabilitate him. After all, punishment alone is not enough. If the offender emerges from prison more dangerous than when he entered, then admittedly we have produced a socially counterproductive result. If every convicted offender sentenced by a judge, irrespective of the nation in which the criminal proceedings took place, was deterred from further offences and emerged a more socially responsible person, then, the criminal law would indeed have fulfilled its purpose. But unfortunately this outcome is not always the case.

4. In this application, considering the record, the Probation Officer’s Report I am of the considered view that the sentence reviewed and have it substituted with Community Service Order at Rukuini Secondary School.

5. Orders accordingly

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT ON THIS 13TH DAY OF MAY 2025

.....

R. NYAKUNDI

JUDGE

