



**Kamoti v Prosecution (Criminal Revision 14 of 2024)
[2025] KEHC 8118 (KLR) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8118 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CRIMINAL REVISION 14 OF 2024**

**TW OUYA, J
JUNE 12, 2025**

BETWEEN

PETER MUYANDA KAMOTI APPLICANT

AND

PROSECUTION RESPONDENT

RULING

1. Before this court is an application for review of sentence under section 333(2) of the *Criminal Procedure Code*. The applicant was charged with the offence of defilement where after his trial was found guilty and sentenced to serve ten years imprisonment taking into account two and half years spent in custody. Being dissatisfied, the instant application filed the instant application citing that the trial court ought to have taken into account the time that he spent in custody while sentencing him.
2. The matter was canvassed by way of written submissions by the applicant in person and Counsel for the Prosecution/Respondent. The Appellant stated in his submissions that he had been in remand custody since his arrest on 5th December 2020 up to the date of his conviction on 30th May 2023 which amounts to two years and six months which was not factored during his sentencing exercise. The Applicant states further that he is a first offender, is now rehabilitated and seeks this court to give him a second chance to have a fresh start in life. He also states that he is remorseful.
3. Counsel for the respondent opposed the application vide a replying affidavit dated 16th July 2024 averring that the sentence meted against the applicant was ten years period spent in custody (taking into account 2 ½ years spent in custody). This is according to the proceedings at page 42. The respondent avers further that the sentence was proper and legal. The same sentiments are reflected in the respondent's submissions which also urge the court to dismiss the applicant's application for being an abuse of the process of the court.



4. I have carefully considered the applicant's application together with the with the affidavit and submissions by the rival parties. I have also perused the record and in particular, the sentence at page 42 which stated inter alia that:

“I have considered the report dated 29/5/23 prepared by Mweu J. I note also that the accused has been in remand since on or about 7th Dec 2020 i.e 2 years and about 6 months whereas recent jurisprudence has allowed the courts discretion to consider the circumstances of each case and mete out appropriate sentences, and not necessary the minimum sentences, this court considers that the circumstances in which the offence was committed are very saddening.

This particular fact may have nothing to do with the accused but it cannot be ignored i.e the complainant said that the accused threatened her that if she tells on him. She will be killed, just like her sister.

I also note PW2 confirmed that PW 1 's sister was killed after being defiled. Also noted is the fact that PW2 told the court that PW 1 has physical and mental impairment.

In those circumstances, the accused is sentenced to serve 10 years imprisonment (taking into account the 2 ½ years spent in remand).”

5. From the above, it is clear that the application by the applicant lacks merit since the issue raised was already addressed by the trial.
6. I therefore dismiss the application with no orders as to costs,

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 12TH JUNE, 2025.

HON. T. W. OUYA

JUDGE

For Appellant.....Peter Muyanda Kamoti –Present at Kamiti

For Respondent.....Ms Torosi for ODPP State

COURT ASSISTANT.....Jackline

