



**Maritim v Republic (Criminal Revision E112 of 2024)
[2025] KEHC 7737 (KLR) (4 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7737 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL REVISION E112 OF 2024**

RB NGETICH, J

JUNE 4, 2025

BETWEEN

BENARD KIPKORIR MARITIM APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Benard Kipkorir Maritim was charged with the offence of Defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act* No.3 of 2006. The particulars of the charge were that the accused on the 17th day of November, 2018 at around 1400 hours in Rongai Sub-County within Nakuru County intentionally and unlawfully caused his penis to penetrate the vagina of KJB a child aged 13 years old.
2. The Applicant faced an alternative charge of Indecent Act with a child contrary to section 11(1) of the *Sexual Offences Act* No.3 of 2006. The particulars of the charge were that the accused on the 17th day of November, 2018 at around 1400 hours in Ronagi sub-county within Nakuru County intentionally and unlawfully caused his penis to come into contact with the vagina of KJB a child aged 13 years.
3. The Applicant denied the charge and the matter proceeded for trial and by judgment delivered on the 7th October, 2019, the trial court found the accused guilty in the main count and convicted him as charged and was subsequently sentenced the accused to serve 10 years imprisonment.
4. Being dissatisfied and aggrieved with the conviction and sentence of the trial court, the applicant appealed to this court vide Kabarnet High Court Appeal No.66 of 2019. Upon hearing of the Appeal, this court dismissed the appeal on conviction and upheld the sentence of the trial court on the 27th day of July, 2023.
5. The Applicant has approached this court vide an undated application seeking review of the remaining sentence so as to serve remaining period of his sentence which is set to expire on the 27th July, 2025



under probation. He states that he is willing to comply with the provisions of the Probation order as shall be imposed by the court. When the matter came up before court on the 20th May, 2025, the Applicant informed the court that he is remaining with 2 months to serve. The court called for a social inquiry report which was filed as directed by this court.

Social Inquiry Report

6. From the report, the accused was born in the year 1981. He sat for KCPE and scored 350 marks but did not proceed with secondary education owing to financial challenges. After dropping out of school, he engaged himself in casual jobs in the farms as well as herding. Prior to his arrest, he was employed by Alfega sisal farm for a period of about one year. He is married with 5 children.
7. The Applicant maintains that he did not commit the offence of defilement but was wrongly accused by his wife after the two were involved in marital conflicts but the court however found him guilty of the offence. He says he has undergone rehabilitation
8. The victim is currently at her parent's home. She completed form four (4) last year and is assisting her parents in farm work and other domestic chores. The victim stated that she had forgiven the accused and does not hamper any bitterness towards him. The father to the victim who is also the father-in-law to the accused also stated that he has forgiven the accused. The accused's wife looked forward to his release and hoped that the entire family would work towards a cordial relationship.
9. The local administrator indicated that the accused was well known to him before the commission of the offence and was well known in the area as 'pastor'. He further stated that his office facilitated the accused to acquire Title Deed for the farm that he had been allocated as an IDP and pledged to support the accused to settle down and to be reintegrated back in the community once he completes his prison sentence.
10. The probation officer indicated that the applicant has been rehabilitated positively during his custodial sentence period.

Analysis and Determination

11. The application herein invokes the revisional jurisdiction of this court which gives the court powers, in appropriate cases, to review and vary any orders, decision or sentence passed by the trial court if the court was satisfied that the impugned order, decision or sentence was illegal or was a product of an error or impropriety on the part of the trial court. If the court was so satisfied, the law mandates it to make appropriate orders to correct the impugned order, decision or sentence and align it with the law. The above is the import of Section 362 as read with Section 364 of the *Criminal Procedure Code*.
12. The objectives of sentencing are outlined in the 2023 Judiciary of Kenya Sentencing Policy Guidelines at page 15; paragraph 4.1 as follows:

Retribution: To punish the offender for his/her criminal conduct in a just manner.

Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.

Rehabilitation: To enable the offender reform from his criminal disposition and become a law-abiding person.

Restorative justice: To address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims', communities' and offenders'



needs and justice demand that these are met. Further, to promote a sense of responsibility through the offender's contribution towards meeting the victims' needs.

Community protection: To protect the community by incapacitating the offender.

Denunciation: To communicate the community's condemnation of the criminal conduct.”

13. I have considered sentiments given by the victim, the victim's parents and the local administration who all confirm that they have forgiven the Applicant and also the sentiments of the prison authorities who have stated that the Applicant is fully reformed. I have also considered the fact that the applicant is remaining with only 2 months to complete sentence. In view of the above I am inclined to revise applicant's remaining sentence to probation sentence.

14. Final orders :

The Applicant to serve the remaining period of sentence under probation

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 4TH DAY OF JUNE 2025.

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RACHEL NGETICH

JUDGE

In the presence of:

* Ms. Kosgei for State.

* Applicant present.

* Elvis/Momanyi – Court Assistants.

