



**Nyanchoha v Republic (Criminal Miscellaneous Application
E021 of 2022) [2025] KEHC 7686 (KLR) (5 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7686 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KILGORIS
CRIMINAL MISCELLANEOUS APPLICATION E021 OF 2022**

CM KARIUKI, J

JUNE 5, 2025

BETWEEN

GEORGE MAKORI NYANCHOBA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of defilement contrary to Section 8(1) as read with Section 8(4) of *Sexual Offences Act* No. 6 of 2006.
2. He denied, was tried and convicted of the same offence and sentenced to a mandatory minimum sentence of 15 years.
3. He now challenges the sentence and also invokes provisions of Section 333(2) *Criminal Procedure Code* Cap 75 Laws of Kenya for the period sentenced in custody 28/12/2014 to 31/1/2018 about 3 years or so to be taken into account.
4. As to the sentence challenge, the same now is a settled issue that the minimum sentences set by the *Sexual Offences Act* No. 6 of 2006 are Constitutional and cannot be reduced.
5. This is in accordance with Supreme Court case of Republic Vs. Josiah Gichuki where court held the minimum sentencing by statutes are constitutional and not amendable to be reduced on the qualification of Section 333(2) *Criminal Procedure Code* Cap 75 Laws of Kenya, same prescribed that period spent in custody prior to conviction and sentence if accused was not on bond to be factored in the sentencing a convictee.
6. In the instant case the Applicant was in custody from 28/12/2014 to 31/1/2018 when the Applicant was sentenced to 15 years. Therefore, the court makes the orders.



- i. Thus, under the provisions cited (333(2) CPC). The Applicant person, period of 15 years will now be computed with effect from 26/12/2014. Thus, the in-charge of the prison is directed to compute 15 years imprisonment from 26/12/2014.
- ii. Orders accordingly.

RULING DELIVERED DATED AND SIGNED THIS 5TH DAY OF JUNE 2025.

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JUSTICE CHARLES KARIUKI

JUDGE

