



**Saitoti v Republic (Miscellaneous Criminal Application  
E015MIS of 2024) [2025] KEHC 7763 (KLR) (5 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7763 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KILGORIS  
MISCELLANEOUS CRIMINAL APPLICATION E015MIS OF 2024**

**CM KARIUKI, J**

**JUNE 5, 2025**

**BETWEEN**

**JEUVILAS SAITOTI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The appellant via application undated seeks reduction of the sentence imposed by the trial court of 10 years. He had been charged with offence of Robbery under Section 296(2) PC particulars been that on the 8<sup>th</sup> day of October 2021 at Majengo estate in Kilgoris township within Transmara West sub-county jointly with others not before court robbed Cynthia Irene her mobile phone make itel valued at Kshs.1,000/= and a cash of Kshs.500/= and immediately before or immediately after the time of such robbery wounded the said Cynthia Irene.
2. He pleaded guilty and after he was sentenced to serve ten (10) years imprisonment. He did not appeal but instead he seeks reduction of the sentence.
3. The prosecution opposes application after mitigations were considered by the trial court before imposition of the sentence of ten (10) years).
4. There are no new mitigating factors as the alleged leg and ear ailments have not been supported by any medical department or hospital records.
5. The maximum sentence for offence of robbery under Section 296 (2) of the *Penal Code* Cap 63 Laws of Kenya is death.
6. The court agrees that items stolen during the commission of the robbery were worth (estimates) Kshs.1,500/= and also the injuries sustained by the robbery victim degrees are not disclosed.
7. That is why the prosecutor would not seek enhancement of the sentence.



8. As was found in the case of *Mukuru v Republic* (Criminal Revision E149 of 2023) [2024] KEHC 3764 (KLR) (18 April 2024) (Ruling)
9. Under Section 362 of the *Criminal Procedure Code* provides: “The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.”
10. 4.The section gives the court jurisdiction to review orders issued by the sub-ordinate court for the purpose of satisfying itself as to the correctness, legality and or propriety of any finding, sentence or order recorded or passed and to the regularity of any proceedings Section 364 of the *Criminal Procedure Code* on the other hand provides for the powers of the Court on Revision. It provides:-“(1)In the case of a proceeding in a subordinate court the record of which has been called for or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may -(a) in the case of a conviction, exercise any of the powers conferred on it as a court of appeal by sections 354, 357 and 358, and may enhance the sentence;(b)in the case of any other order other than an order of acquittal, alter or reverse the order.
11. The High Court’s revisionary power in Kenya, as outlined in section 364 of the *Criminal Procedure Code*, allows it to review the records of a case in a lower court and exercise powers similar to an appellate court. This power is used to ensure justice is done by correcting manifest irregularities and illegalities, not to simply substitute its own discretion with the lower court’s. The High Court can alter or reverse orders, including enhancing a sentence, but cannot convert an acquittal into a conviction.
12. In the instant circumstances of the matter at hand, applicant has to establish one of the instances the powers granted for revision apply to his case on sentencing order.

#### **Key Aspects of Powers Revisionary:**

Discretionary:

13. The High Court’s revisionary powers are discretionary, meaning it’s not a right of the litigant, but rather a tool for the court to ensure justice is administered correctly.

#### **Correction of Errors:**

14. The primary purpose is to rectify errors of law, jurisdiction, or manifest irregularities in the lower court’s proceedings.

#### **Powers of an Appellate Court:**

15. The High Court can exercise the powers of an appellate court, such as reversing or altering orders and potentially enhancing sentences.

#### **No Right to Revision:**

16. There’s no automatic right to revision if an appeal was available but not exercised.

#### **No Conversion of Acquittal:**

17. The High Court cannot change a finding of acquittal to a conviction.



**Hearing:**

18. The accused must be given an opportunity to be heard before an order prejudicial to them is made, unless the lower court failed to pass a sentence when required to do so.
19. In circumstances of the applicant case, court finds no ground set out vide the above law that can warrant this court to interfere with sentence of ten (10 years) and thus I uphold and affirm the same sentence.
  - i. The application is thus dismissed

**DATED, SIGNED & DELIVERED VIRTUALLY IN KILGORIS HIGH COURT ON 5<sup>TH</sup> OF JUNE 2025.**

**CHARLES KARIUKI**

**JUDGE**

In The Presence Of:

Court Assistant: Ms. Jerusha

