



REPUBLIC OF KENYA



KENYA LAW
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**Akole v Republic (Criminal Revision E018 of 2025)
[2025] KEHC 10466 (KLR) (17 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10466 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL REVISION E018 OF 2025
RB NGETICH, J
JULY 17, 2025**

BETWEEN

KAMAMA AKOLE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Kamama Akole was charged with the offence of defilement contrary to section 8(1) as read with Section 8(2) of the *Sexual offences Act*. The particulars of the charge being that the Applicant on the 3rd day of October, 2015 in East Pokot Sub- County within Baringo County, intentionally caused his penis to penetrate the vagina of CD a child aged 11 years.
2. The accused denied the charge and the matter was set down for hearing. The trial court vide a judgment delivered on the 29th February, 2016, found the prosecution's case proved beyond reasonable doubt and thereby found the accused guilty of the offence of defilement and convicted him accordingly. The court subsequently sentenced the accused to serve 20 years imprisonment.
3. Dissatisfied with the sentence of the trial court, the applicant appealed to this court vide Kabarnet High Court Criminal Appeal No.63 of 2017. In his appeal, the applicant urged the court to reduce the sentence. The prosecution opposed the application on ground that the section under which he was convicted provide for citing mandatory sentence. By judgement delivered on the 17th day of January, 2018, the court dismissed appeal on sentence on ground that the court had no discretion to impose sentence below the minimum.
4. The Applicant has now approached this court vide an undated application seeking review of the remaining period of the sentence so as to serve non-custodial sentence on ground that he is remorseful, a first offender, entirely repentant, has reformed and rehabilitated. He stated that he has served 9 years in prison and that he has a young family at home who depends on him as a bread winner. He further



stated that he has enrolled in various church activities and has got certificates on various fields. When the matter came up before court on the 5th May,2025, the applicant stated that he has since served 9 years and 11 months hence remaining with 3 years and 4 months.

5. The prosecution opposed the application on ground that the offence is prevalent and urged court to call for a social inquiry report to assist in considering the application. The court called for a social inquiry to be done which was filed.

Social Inquiry Report

6. From the report, the applicant admits the offence as charged. He states that while in prison for about 10 year and prays for community rehabilitation sentence so that he can re-start his life a fresh and practice the skill learnt in prison skills within the community. He promises to abide by the conditions for non-custodial sentence.
7. The victim and the applicant were neighbours. The victim is currently 21 years and never attended school, she does businesses for a living within Kolowa market selling maize and beans. She got married in the year 2019 and she is blessed with 2 children aged 5 and 3 years. She stated that the applicant was her first boyfriend and she has forgiven him for the offence. She was not able to state how the offence imparted on her psychologically, physically or emotionally. She did not oppose the applicant's prayer for review of sentence stating that she believes that he is a changed man and has served in prison for long.
8. The local administrator indicated that the applicant is well known to him and confirmed that it was his first offence and before the offence, he was a man with good character who used to work as a herder and a farmer. He added that the applicant's criminality is due to negative peer influence. He confirmed that the victim got married and there is no hostility between the families. He is aware that the Applicant has spent 10 years in prison and acquired several skills that will be helpful to him once released. He is not opposed to the applicant's prayer and he is willing to facilitate his re-integration and resettlement within the community. He further stated that if the applicant is released, he will link/enroll him with the world vision Kenya-Kolowa ADP where they have a 5 year program called Bring dream where they concentrate on alternative livelihood.

Analysis and Determination

9. The application herein invokes 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 mandated 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*.
10. The applicant has informed the court that he is remorseful, he has reformed and while in prison for about 10 years, he has obtained skills which will enable him earn a living and make positive contribution to the community.
11. 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 demands 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.”

12. I have considered sentiments of the victim and local administration as captured in the social inquiry report. The victim and the local administration are not opposed to review of sentence. I have also considered the fact that the Applicant has undergone several trainings while in custody which will enable him earn a living upon release and contribute to the community if reintegrated back to the community.

13. In view of the above, I am inclined to revise the applicant's remaining to noncustodial sentence.

Final Orders

14. Applicant to serve the remaining period of sentence under probation.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT ELDAMA RAVINE HIGH COURT (SUB-REGISTRY) THIS 17TH DAY OF JULY, 2025.

RACHEL NGETICH

JUDGE

In the presence of

CA Elvis.

Ms. Omari for state.

Applicant present.

