



**Cheruiyot v Republic (Criminal Miscellaneous Application
E129 of 2022) [2025] KEHC 10450 (KLR) (17 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10450 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL MISCELLANEOUS APPLICATION E129 OF 2022**

**PN GICHOHI, J
JULY 17, 2025**

BETWEEN

VICTOR KIMUTAI CHERUIYOT APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This Court has considered the Notice of Motion filed on 31/10/2022. The Applicant seeks that the period spent in custody be considered as part of the sentence under Section 333 [2] of the *Criminal Procedure Code*. He has not appealed the sentence and conviction.
2. The Court record shows that the accused was sentenced on 2/6/2022 by Hon. A. Mukenga to serve 10 years imprisonment for the offence of defilement contrary to Section 8[1] as read with Section 8 [4] of the *Sexual Offences Act* No. 3 of 2006.
3. It is apparent that the trial Magistrate did not consider the mandatory provisions of Section 333 [2] of the *Criminal Procedure Code*. From the record, the Applicant was arrested on 4/2/2020 and presented in Court for plea on 10/2/2020 where he pleaded not guilty and the matter went for trial. There is no evidence that he ever went out on bond since then.
4. He has no issue with conviction or sentence and therefore he has not preferred any appeal.
5. Mr Kihara for the State/Respondent has not objected to this application.
6. In the circumstances the sentence of 10 [ten] years imprisonment shall be computed to run from the date of arrest being 4/2/2020.

RULING DATED AND SIGNED AT NAKURU THIS 17TH DAY OF JULY, 2025.

PATRICIA GICHOHI



JUDGE

In the presence of:

Victor Kimutai Cheruiyot – Applicant

Mr. Kihara for the Respondent

Ruto, Court Assistant

