



**Kapkiyai v Republic (Criminal Revision E473 of 2024)
[2025] KEHC 10024 (KLR) (1 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10024 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL REVISION E473 OF 2024**

JM NANG'EA, J

JULY 1, 2025

BETWEEN

KIPKULEI KAPKIYAI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged in the lower court with the offence of House Breaking Contrary to Section 304(1) and Stealing contrary to Section 279(b) of the Penal Code. Alternatively he was charged with Handling Stolen Property Contrary to Section 322(2) of the same Code.
2. The particulars of the main charge are that on 4th September 2024 at around 1300 hours at Machini Village, Rongai Sub County; of Nakuru County, the Applicant broke and entered the dwelling house of Christine Koech and stole a bag, two National Identification Cards, a mobile phone and cash of Kshs. 20,000/=.
3. It is alleged in relation to the alternative charge that otherwise than in the cause of stealing, the Applicant dishonestly retained the stated properties knowing or having reason to believe them to have been stolen or unlawfully obtained.
4. The record shows that the Applicant entered a plea of guilt, in respect of the main charge and was sentenced to two (2) years imprisonment in respect of each of the two limbs of breaking and stealing. The sentences were directed to be served out concurrently.
5. By an undated letter to this court filed on 27th February, 2025, the Applicant seeks revision of the trial court's sentence pursuant to the provisions of Sections 363 and 364 of the Criminal Procedure Code. Specifically, the Applicant expresses remorse and prays for a non-custodial sentence instead.



6. The offences of which the Applicant has been convicted and sentenced attract maximum prison terms of 7 (seven) years (breaking) and 14 (fourteen) years (stealing). The 2 (two) prison terms imposed by the lower court are not therefore illegal. The court does not have jurisdiction in the circumstances, this not being an appeal against severity of the sentences. Perhaps the Applicant may only benefit when the Judiciary carried out its regular Prison Decongestion Programme.
7. This application is accordingly dismissed.

RULING DELIVERED THIS 1ST DAY OF JULY, 2025 IN THE PRESENCE OF:

J. M. NANG'EA, JUDGE.

Ms Mwaura for the DPP

Applicant, present in person

Court Assistant (Jeniffer)

