



**Kiplagat alias Lalaa v Republic (Criminal Miscellaneous Application E056 of 2025) [2025] KEHC 9425 (KLR) (1 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9425 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL MISCELLANEOUS APPLICATION E056 OF 2025  
RN NYAKUNDI, J**

**JULY 1, 2025**

**BETWEEN**

**SILA KIPLAGAT ALIAS LALAA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before this court is an application dated 9th day of April 2025 seeking the following orders:
  1. That, the petitioner is approaching this Hon. Court for a sentence review under section 362 as read with section 364 of CPC and in reliance to article 50 (2)(q) of COK for period spent in pre-trial custody.
  2. That, the applicant is seeking for orders for a reduction of his sentence on considering that the Applicant has taken responsibility for his wrong doing.
  3. That the, applicant is seeking for orders for a reduction of his sentence on considering that the 30years imposed on him has already achieved its goal and the court should consider a shift from punitive to less punitive sentencing objective.
  4. That the applicant is seeking for orders for a reduction of his sentence on considering that he has reformed and rehabilitated, is young with a bright future.
  5. That, the petitioner is praying to be present during the determination of this petition.

**Affidavit**

2. That, I am a Kenyan citizen who is an adult male of sound mind hence competent to swear this affidavit.



3. That, I was charged with the offence of defilement contrary to section 8 (1) as read with sec 8 (2) of the [sexual offences Act](#). I was convicted and sentenced to serve 30 years by SPM's court at Eldoret by Hon. Onkoba that was delivered 24/03/2023.
4. That, I filed for an appeal against the above decision which was dismissed at Eldoret High court by Hon. Justice R. Nyakundi J. delivered on 29/11/2024
5. That, the Applicant is approaching this court for a criminal review under sec 362 as read with sec 364 of the CPC and in reliance to article 50 (2) (q) of COK on the following grounds:
  - a. That, following the concurrent finding of guilt by the trial and appellate courts the applicant has opted to take responsibility for the wrong done levelled against him. The changed attitude towards the offence he committed is a step towards his rehabilitation and reformation. I am really sorry for what transpired and am seeking for forgiveness from the court and the complainant, based on this I am seeking the leniency of the court in terms of sentence.
  - b. That the applicant is deterred and corrected by the 30 years sentence that was imposed on him and prays that the court should discontinue this tormenting objective to less punitive and tormenting objectives of rehabilitation, reintegration among others. These objectives are achieved through sentence reduction.
  - c. That the applicant prays that on account that he became reformed and rehabilitated which is demonstrated by being born again, has a number of biblical courses. He has acquired skills in carpentry which he has yet to acquire certification due to absence grade test after the Corona epidemic.
  - d. That, the applicant was and is still a young man with brilliant future which is being ruined by the lengthy sentence of 30 years which is consuming a better part of his productive life.
6. That, what I have deponed herein is true to the best of my knowledge, information and belief.

### **Decision**

7. This court on Appeal pronounced itself on 4.12.2024 as follows:

Accordingly, while I dismiss this appeal and uphold both the conviction and the sentence of thirty years imprisonment, I direct that the six months the appellant spent in pre-trial custody be considered as part of his sentence. The upshot is that this appeal fails in its entirety save for the adjustment of sentence to account for pre-trial custody period

8. This Applicant by virtue of facts of this case deserved life imprisonment but for circumstances set out in the judgement he is serving a custodial sentence
9. In this case the doctrine of res-judicata in the realm of civil law applies Mutatis Mutandis in criminal litigation with the following elements applicable. " That the doctrine of re-judicata is to protect courts from having to adjudicate more than once on issues arising from the same cause of action and to protect the public interest that there should be finality in litigation and that justice be done between the parties. I have reminded myself of the words in Halsbury's Laws of England 4<sup>th</sup> Edition Vol. 16 paragraph 1528. The passage reads in part " In order for the defence of res judicata to succeed it is necessary to show not only that the cause of action was the same but also that the plaintiff has had an opportunity of recovery and but for his own fault might have recovered in the first action that which he seeks to recover in the second action... It is not enough that the matter alleged to be concluded might have been put in issue,



or that the relief sought might have been claimed. It is necessary to show that it was actually put in issue or claimed.”

4. Having set the legal framework to the facts of this case, the Applicant is estopped from litigating on this same issue which has been conclusively dealt with by the courts constitutionally mandated to adjudicate over the subject matter. It is in light of this I dismiss the application under Section 382 of the *Criminal Procedure Code*.

**GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 1<sup>ST</sup> DAY OF JULY 2025.**

.....

**R. NYAKUNDI.**

**\*JUDGE**

