



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Murungi v Republic (Criminal Revision E002 of 2025)
[2025] KEHC 10558 (KLR) (17 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10558 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL REVISION E002 OF 2025
SM GITHINJI, J
JULY 17, 2025**

BETWEEN

GERALD MURUNGI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Gerald Murungi, the applicant herein, was charged together with another namely Job Mwika with an offence of grievous harm, contrary to Section 234 of the penal code.
2. The particulars of the offence being that on the 30th day of June 2017 at Anjau Sub-location, Luciuti Location, Igembe North Sub-County within Meru County, they jointly and unlawfully did grievous harm to Abed Muthoni.
3. After the trial, the court found them guilty of the offence and were sentenced to serve each 10 years imprisonment. The applicant did not prefer an appeal to the High Court but filed the current application for revision of the sentence, under sections 362 and 364 of the C.P.C.
4. The Notice of Motion dated 3rd January, 2025 shows that his prayer is for the period spent in custody while undergoing trial to be considered and deducted from the meted sentence of 10 years Imprisonment, as provided for under section 333(2) of the Criminal Procedure Code.
5. The Respondent opposed the Application on the grounds that the sentence meted against the applicant is legal, proper and the trial court did not act on wrong principle or omitted relevant factor or took into account irrelevant factors in sentencing the applicant.
6. Under section 333(2) of the Criminal Procedure Code, every sentence is deemed to start from the day it's pronounced unless the accused was in custody before sentencing. A cursory glance at the proceedings in this case shows the applicant was arrested on 28/8/2017. On 19/10/2017, one Robert



Kimathi Murungi paid on his behalf cash bail of 50,000/= and he was thus released. He was not therefore throughout in custody during the trial. My calculation from 28/8/2017 to 19/10/2017 shows he was in custody for only 53 days.

7. The trial Magistrate while sentencing him on 20th October 2024 expressed:-

“I have considered Mitigation statement by the 1st accused. He is a first offender. However, the injury inflicted on the complainant are severe and life threatening. In addition, the accused had to be arrested after evading sentencing and he is before the court under arrest. He is certainly not remorseful on this horrendous attack on the complainant. He is hereby sentenced to serve imprisonment for 10 (Ten) years.”

8. From the foregoing its apparent that the 53 days the applicant had spent in custody before he was released on bond were not considered and arithmetically deducted from the meted sentence. To the said extent, I find the application merited. The 10 years imprisonment meted against the applicant is lessened by 53 days. Prison Authorities under which he is serving to effect the finding.

DATED AND DELIVERED AT MERU THIS 17TH JULY, 2025.

S.M. GITHINJI

JUDGE.

Appearances:-

Parties absent.

They be notified.

