



**Maina v Republic (Criminal Revision E264 of 2024)
[2025] KEHC 9730 (KLR) (4 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9730 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL REVISION E264 OF 2024**

MA ODERO, J

JULY 4, 2025

BETWEEN

JOHN MACHARIA MAINA APPLICANT

AND

REPUBLIC PROSECUTOR

RULING

1. The Applicant herein John Macharia Maina has filed an application seeking review of his sentence.
2. The Applicant had been charged in the Magistrates' court vide Karatina Criminal Case No. 293/2023 with the offence of threatening to kill contrary to section 223 (1) of the [penal code](#).
3. The Applicant initially entered a Plea of 'Not Guilty' to the charge and the hearing commenced on 31st July 2023.
4. Later on 16th October 2023 the Applicant indicated to the court that he wished to change his plea. The charges were then read out afresh and the Applicant entered a plea of 'Guilty' to the charge.
5. Upon the facts being read out the Applicant maintained his plea of 'Guilty'. He was then convicted. After listening to the mitigation the court sentenced the Applicant to serve four (4) years imprisonment.
6. The Applicant now prays to have his sentence reviewed.
7. The ODPP, represented by Ms Atina learned state Council opposed the appeal.



8. The Power of the High Court to review sentences is set out in Section 362 of the [Penal Code](#), Cap 63 Laws of Kenya which provides as follows:-

“The High Court may call for and examine the record of any criminal proceedings before any subordinate Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings in any such subordinate court.”

9. The orders which the High Court may make upon revision are provided by Section 364 of the [Penal Code](#).

10. I have carefully perused the record of the proceedings before the lower court. I am satisfied that the correct procedure was followed in all aspects. The Applicant first pleaded ‘Not guilty’ then mid-way through the trial changed his plea to that of ‘Guilty’.

11. The court then read out facts to the Applicant as required. The Applicant maintained his guilty plea. The Applicant was accorded the opportunity to address the court in mitigation. The court did consider his mitigation before imposing sentence.

12. It is pertinent to note that the Applicant was not a first offender. The Applicant had one previous record which he accepted. It was noted that the victim of the offence was the father of the Applicant.

13. The maximum sentence for this offence under Section 223 (1) of the [Penal Code](#) is ten (10) years imprisonment. The trial court imposed a sentence of four (4) years which was well below the maximum sentence.

14. It must be remembered that the issue of sentencing lies at the discretion of the trial court. The High Court should be slow to interfere with a sentence imposed by the trial court unless very compelling reasons to do so are advanced.

15. Finally I find no merit in this application for review. The same is dismissed in its entirety. The Applicant will serve sentence as imposed by the trial court.

DATED IN NYERI THIS 4TH DAY OF JULY 2025.

MAUREEN A. ODERO

JUDGE

