



**Wambui v Republic (Criminal Revision E141 of 2024)  
[2025] KEHC 12674 (KLR) (10 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12674 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT THIKA  
CRIMINAL REVISION E141 OF 2024  
FN MUCHEMI, J  
SEPTEMBER 10, 2025**

**BETWEEN**

**LILIAN WAMBUI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The application for determination is undated in which the applicant seeks to have the application for review dated 30<sup>th</sup> November 2023 be withdrawn and to amend the warrant.
2. The applicant states that she was convicted in Thika CM Criminal Case No. E1161 of 2021 with four (4) counts of the offence of obtaining by false pretence contrary to Section 313 of the Penal Code and was sentenced to serve two (2) years imprisonment for each count on 15<sup>th</sup> December 2022. The applicant states that she had earlier filed an application for review of sentence in the trial court seeking to have the sentence run concurrently but she discovered that the trial magistrate had captured the issue in her proceedings.  
  
She states that for now, she seeks to have the said application for review withdrawn. She further states that she has completed her prison term of two year (2) years and thus urges the court to amend her warrant which failed to reflect the correct orders by the learned magistrate.
3. The respondent opposes the application vide Grounds of Opposition and submissions dated 12<sup>th</sup> June 2025 and states that the sentence passed by the trial court is constitutional and legal. Further, the respondent states that the applicant has not argued that the sentence passed is manifestly harsh and excessive, illegal or improper or that the trial court acted on wrong principles or omitted relevant factors or took into account irrelevant factors in sentencing. The applicant has made generalized reasons which do not suffice interference with the discretion of the trial court in sentencing or warranting upsetting the sentence imposed by the trial court.



4. The respondent further states that the trial court considered the mitigation of the applicant. Furthermore, both mitigating and aggravating circumstances were considered but the aggravating circumstances outweighed the mitigating circumstances hence the sentence by the trial court. The respondent states that the offence the applicant was found guilty is a misdemeanour which attracts a sentence of three years which is legal and constitutional. The applicant is therefore lucky that she was given a lenient sentence by the court.

#### **The Law**

5. This court is empowered by Article 165(6) of *the Constitution* of Kenya to review a decision by a subordinate court. Article 165(6) provides:-

The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.

6. The applicant herein was convicted in Chief Magistrate Court in Thika in Criminal Case No. E1161 of 2021 with four counts of the offence of obtaining money by false pretences contrary to Section 313 of the Penal Code. She was sentenced to pay a fine of Kshs. 150,000/- for each count in default to serve 2 years imprisonment for each count the court ordered that the sentences do run concurrently. I have perused the record and noted that the warrants dated 29<sup>th</sup> December 2022 and 10<sup>th</sup> January 2023 are for a different case number that is Criminal Case No. 1157 of 2022 and 277 of 2021 whereby the applicant was sentenced on her own plea of guilty. The warrants for Criminal Case No. E1161 of 2021 correctly reflect that the sentence is for two years on all four counts. Thus, the court cannot review sentences in Criminal Cases 1157 of 2022 and 277 of 2021 in this file. The position is that the committal warrant correctly reflects the sentence meted out in Criminal Case No. E1161 of 2021, on 15<sup>th</sup> December 2022 by Hon. D. Milimu. The applicant is advised to file review applications for the said files Thika CM Cr. Cases Nos. 1157/2022 and 277/2021.
7. This application for withdrawal of the application for review of sentence dated 30<sup>th</sup> November is hereby allowed.
8. It is hereby so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 10<sup>TH</sup> DAY OF SEPTEMBER 2025.**

**F. MUCHEMI**

**JUDGE**

