



REPUBLIC OF KENYA



**Eid v Director Public Prosecution (Criminal Revision  
E155 of 2023) [2024] KEHC 188 (KLR) (19 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 188 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
CRIMINAL REVISION E155 OF 2023  
A. ONG'INJO, J  
JANUARY 19, 2024**

**BETWEEN**

**HUSSEIN MASSOUD EID ..... APPLICANT**

**AND**

**DIRECTOR PUBLIC PROSECUTION ..... RESPONDENT**

*(Appeal against conviction and sentence in Mombasa High Court CR. Appeal No. 70 of 2019 was dismissed on 17th day of March 2023 by Hon. Lady Justice F. Mugambi)*

**RULING**

1. The applicant Hussein Massoud Eid was accused in Mombasa Chief Magistrates Court CR. Case No. 468 of 2018 where he was charged with offence of Trafficking in Narcotic Drugs contrary to Section 4(a) of the *Narcotic Drugs and Psychotropic Substances (Control) Act* No. 4 of 1994.
2. The particulars were that the Applicant and 2 Others on the 16<sup>th</sup> day of March 2018 at Regency Park Hotel in Mombasa Town within Mombasa County, jointly with others not before court trafficked by storing narcotic drugs namely heroin to wit 10.022kgs with a market value of Kshs.30,066,000/= concealed in the false bottoms of 3 suit cases in contravention of the provision of the said Act.
3. The Applicant was convicted and sentenced to serve 30 years in prison and in addition fined Kshs.90,000,000/= and in default to serve to 5 years jail term.
4. The Applicants appeal against conviction and sentence in Mombasa High Court CR. Appeal No. 70 of 2019 was dismissed on 17<sup>th</sup> day of March 2023 by Hon. Lady Justice F. Mugambi who considered the reasoning of the trial Magistrate in arriving at the sentence and said she found no reason to interfere with the same save that the sentence was ordered to run from 16<sup>th</sup> March 2018 when the applicant was arrested.



5. The Applicant by an application dated 6<sup>th</sup> September 2023 now seeks that this court grants him a repatriation order since he is a Tanzanian serving sentence in a foreign country. He averred that he had already served 5 years of the 20 years that he is supposed to serve and that he is remorseful for his actions. He said he had a young family but the court did not consider that mitigating factor.
6. Revision of orders is provided for under Section 362, 363 & 364 of the *Criminal Procedure Code*.
7. This court finds that the Judgement in the trial court and the Appeal in the High Court does not warrant an order of revision. The Applicant committed the offence in Kenya and the Laws applicable are those of Kenya and can only be exercised in this country.
8. The trial Court already made an order for repatriation of the applicant back to his country upon completing his sentence as he entered Kenya unlawfully. There is no need to make another similar order.
9. This court also finds that the Judge in the appeal addressed herself to the issue of sentence and finding no reason to unsettle the exercise of discretion by the trial court dismissed the appeal. This court has no reason to re-open the issue on an application.
10. The application herein is dismissed.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,  
THIS 19<sup>TH</sup> DAY OF JANUARY 2024**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

In the presence of: -

Etropia - Court Assistant

Mr. Ngiri for the Respondent

Applicant- Present in person

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

