



REPUBLIC OF KENYA



**Mutugi v Director of Public Prosecutions (Petition E112 of 2024)
[2024] KEHC 3346 (KLR) (14 March 2024) (Judgment)**

Neutral citation: [2024] KEHC 3346 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
PETITION E112 OF 2024
TW CHERERE, J
MARCH 14, 2024**

BETWEEN

MARTIN MUTUGI PETITIONER

AND

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

JUDGMENT

1. Applicant was charged, tried and convicted in MERU MCCR. No. E288 Of 2021 in five counts namely:
 1. Obtaining money by false pretences contrary to section 313 of the [Penal Code](#)
 2. Two counts of uttering a false document contrary to section 353 of the [Penal Code](#)
 3. Personation contrary to section 382 of the [Penal Code](#)
 4. Conspiracy to defraud contrary to section 317 of the [Penal Code](#)
2. Appellant was on 21st March, 2023 sentenced to serve 2 years in each count which sentences were ordered to run concurrently.
3. Applicant seeks that the sentences be subjected to the provisions of Section 333(2) of the [Criminal Procedure Code](#) so that the time he spent in custody can be accounted for.
4. The Court of Appeal held in the case of Bethwel Wilson Kibor vs Republic [2009] eKLR that: -

“By proviso to section 333(2) of the [Criminal Procedure Code](#), where a person sentenced has been held in custody prior to such sentence, the sentence shall take into account of the period spent in custody.”



5. Applicant was arrested on 07th July, 2021 and remained in custody throughout the trial. The trial court that sentenced the Applicant failed to take into account the period that the Applicant had been in custody.
6. It is therefore ordered that the term of 2 years imposed on the Applicant in each count shall run be computed from 07th July, 2021 when he was arrested.

DELIVERED AT MERU THIS 14TH DAY OF MARCH 2024

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

Applicant - Present

For the DPP - Ms.Rita Rotich (PC-1)

