



**Toroitich v Republic (Criminal Revision E022 of 2024)
[2024] KEHC 3494 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3494 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E022 OF 2024
RN NYAKUNDI, J
APRIL 11, 2024**

BETWEEN

REUBEN KIPROP TOROITICH APPLICANT

AND

REPUBLIC RESPONDENT

RULING

Representation:

Mark Mugun for the state

1. The applicant was charged with the offence of creating disturbance in a manner likely to cause a breach of the peace contrary to section 95(1) (b) of the *Penal Code*. The Particulars of the offence are that on 1st January, 2024 at Sorngetyuny village in Moiben Sub-County within Uasin Gishu County created a disturbance in a manner likely to cause a breach of the peace by throwing a stool and food at Lucy Soti Chirchir while shouting at her and demanding her to serve him with another food.
2. The applicant pleaded guilty to the offence before Hon. Kesse on 2nd January, 2024 and as a consequence, he was convicted on his own plea of guilty and sentenced to serve 1 year imprisonment.
3. The applicant has approached this court pursuant to sections 357,362,364& 382 of the *Criminal Procedure Code* as construed with Article 50(2) (p) & (q) as conjunctively read with Article 50(6) (a)&(b) of *the Constitution*.
4. The applicant is before this court seeking sentence review. Unfortunately, he declined to be interviewed and as such the court has not had the benefit of establishing his suitability for a non-custodial sentence.



5. In considering the offence and the objectives of sentencing in totality, the sentence is appropriate and as such I will not interfere with it. In the case of *Shadrack Kipkoech Kogo v R.* Eldoret Criminal Appeal No.253 of 2003 the Court of Appeal stated thus: -

“Sentence is essentially an exercise of discretion by the trial court and for this court to interfere it must be shown that in passing the sentence, the sentencing court took into account an irrelevant factor or that a wrong principle was applied or that short of these, the sentence itself is so excessive and therefore an error of principle must be interfered.

6. From the foregoing, it is my considered view that the application lacks merit and it is dismissed pursuant to section 382 of the *CPC*. For avoidance of doubt, the applicant by dint of the trial magistrate’s order shall serve the full custodial sentence.

SIGNED, DATE AND DELIVERED AT ELDORET THIS 11TH DAY OF APRIL 2024.

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R. NYAKUNDI

JUDGE

