



REPUBLIC OF KENYA



**Manyange v Republic (Miscellaneous Criminal Application  
E067 of 2023) [2024] KEHC 5010 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5010 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION E067 OF 2023**

**DO OGEMBO, J**

**MAY 16, 2024**

**BETWEEN**

**GORDON OMONDI MANYANGE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application for review of sentence and Conviction of Principal  
Magistrate's Court at Bondo in Criminal Case No. 1272 of 2016)*

**RULING**

1. The Applicant, Gordon Omondi Manyange, has filed an application herein dated 18/5/2023. The application seeks revision of the sentence of the applicant and also that the period he spent in remand custody be accounted for pursuant to provisions of Section 333 (2) of the [Criminal Procedure Code](#). The prosecution opposes this application on the ground that this court has already dealt with the issue raised by the applicant.
2. I have considered this application and the response of the prosecution. I have also considered the record of proceedings relating to the case of the applicant.
3. The record shows that the applicant was charged, convicted and sentenced to serve 20 years imprisonment for the offence of defilement contrary to Section 8 (1) as read with Section 8 (3) of the [Sexual Offences Act](#), No. 3 of 2006. This was in Bondo PM's Court, Criminal Case No. 1272 of 2016. He thereafter appealed to this court, vide High Court, Criminal Appeal No. 13 of 2018.



4. In a judgment of the court delivered on 17/12/2019, his appeal against conviction was dismissed. The court however revised the sentence of the Applicant to 15 years imprisonment. In resentencing the Applicant, the court noted, in part;

“As the Appellant had jumped bail while on trial, the sentence to run from the date of conviction and sentence in the lower court.”

5. The Applicant went on to file an application, being Misc. Criminal Application No. E067 OF 2021 seeking revision of the sentence meted out on appeal. The Honourable Judge (R.E. Aburili) dismissed this application for revision. In the said ruling dismissing the application of the Applicant, the Hon. Judge noted, amongst others;

“This court has no jurisdiction to review its own judgment where it exercised discretion and reduced sentence on appeal. In other words, this court cannot reduce further through other proceedings after resentencing the convict as was in this case..”

6. The Applicant, despite the court made a firm finding on the date from which his sentence would run, and thereafter dismissing his application for revision of the sentence, has yet again filed this application seeking revision of the same sentence of the court.

7. The revision orders that the Applicant raises in this application has been conclusively dealt with by the court. This court, has no jurisdiction to review any decision of a judge of concurrent jurisdiction.

8. The application of the Applicant dated 18/5/2023 is an abuse of the process of the court. It is incompetent and devoid of any merit. I dismiss it wholly. It is so ordered.

**DATED, SIGNED AND DELIVERED THIS 16TH DAY OF MAY, 2024.**

**D. O. OGEMBO**

**\*\*JUDGE**

**16/5/2024**

**Court**

**Read out in Open Court in presence of Applicant and Ms. Kerubo for State.**

**D. O. OGEMBO**

**JUDGE**

**16/5/2024**

