



**Paez v Republic (Criminal Revision 53 of 2024)
[2024] KEHC 6157 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6157 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 53 OF 2024**

DR KAVEDZA, J

MAY 16, 2024

BETWEEN

MARIA ARTMELIS PAEZ APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and convicted for the offence of trafficking in Narcotic Drugs contrary to section 4(a) of the [Narcotic Drugs and Psychotropic Drugs \(Control\) Act](#) No. 4 of 1994. She was convicted to serve fifteen (15) years imprisonment. In addition, she was fined Kshs. 25,000,000 in default to serve 12 months imprisonment.
2. She has now filed the present application received on 27th February 2024, seeking revision of sentence. The application is supported by an affidavit on the grounds that since her incarceration, she has been rehabilitated. She is the bread winner of a family of five siblings who solely depend on her for care and protection. She urged the court to grant her another chance to be reintegrated back to society.
3. The instant application is premised on Sections 362 and 364 of the [Criminal Procedure Code](#). Section 362 gives the High Court the jurisdiction to call for and examine the record of any criminal proceeding before any subordinate court to satisfy itself as to the correctness, legality, or propriety of any finding, sentence, or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court. Section 364 on the other hand provides for the powers of the High Court on revision.
4. The application is founded on the grounds that the applicant has since reformed and he is the sole breadwinner of his family. She now seeks the revision of her sentence. In the pre-sentencing proceedings, the trial magistrate the considered the pre-sentencing report from the probation officer and the applicant's mitigation. She then proceeded to sentence the applicant.



5. The other grounds raised are that he is the sole breadwinner of her family. The Court of Appeal, in *Bernard Kimani Gacheru v Republic* [2002] eKLR stated that:

“It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal, the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account some wrong material, or acted on a wrong principle. Even if, the Appellate Court feels that the sentence is heavy and that the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already states is shown to exist.”

6. In my view, the trial court considered the circumstances of the case and meted out the sentence at its discretion. The sentence imposed was therefore proper in the circumstances.
7. The upshot of the above analysis is that the application for revision of the sentence consequently fails and is dismissed.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 16TH DAY OF APRIL 2024

D. KAVEDZA

JUDGE

