



**Chebii v Republic (Criminal Revision E058 of 2023)  
[2024] KEHC 7214 (KLR) (13 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7214 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDAMA RAVINE  
CRIMINAL REVISION E058 OF 2023  
RB NGETICH, J  
JUNE 13, 2024**

**BETWEEN**

**DANIEL CHEBII ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant was charged with the offence of Grievous harm contrary to Section 234 of the Penal Code. The particulars were that the accused on the 31<sup>st</sup> day of March, 2021 at Siteti village, Kamar Location, Mogotio Sub-county, Baringo County unlawfully did Grievous Harm to Beatrice Kibon Chemjor.
2. The accused pleaded guilty to the charges and he was convicted on his own plea of guilty. The trial court on the 9<sup>th</sup> June, 2021 sentenced the accused to serve Seven Years (7) imprisonment.
3. The applicant brings this application now seeks revision of sentence for the jail term to be substituted with probation sentence. He has brought this application under Article 165(3) (9) of Constitution of Kenya and Section 362, 363 and 364 (b) of the Criminal Procedure Code.
4. He states that he is remorseful and repentant of what really happened and if given another chance, he will not repeat such an act again. When the matter came up for hearing on the 16<sup>th</sup> April, 2024, the Applicant stated he has been in prison for 2 years and 9 months hence remaining with 1 year and 10 months to complete his sentence
5. The prosecution counsel Ms. Ratemo prayed for social inquiry report be done to assist the court in determining the appropriate sentence. The court called for social inquiry report to be done by the probation officer. The report was filed on the 16<sup>th</sup> April, 2024. The report indicates that the accused person is a son to the late Chebii Kiptanui and Sota Kiptanui. From the report, the applicant is .....



years old He dropped out of school in class 5. Subsequently engaged in farming up to the time of his arrest. He is married with 7 children the youngest being in class 5.

6. The prisoner states that the victim beat daughter for failing to pay for snack which ate at the victim's kiosk and upon getting the news, he confronted the complainant and a quarrel ensued .In the process of the quarrel, the complaint hit his leg with a stone which prompted the applicant to stab the complainant with a knife . He is remorseful and pleads with the court for leniency. He regrets his action which he attributes to anger and irrational decision as a result of alcohol intake.
7. The prisoner states that while in prison, he has learnt the consequences of anger and overindulgence on alcohol. He prays to the court for leniency so that he can be return back into the community to participate in raising his children. He stated that he was willing to make peace with the victim and foster peaceful co-existence.
8. The victim stated that she has decided to forgive the applicant. She however stated that she has fully healed from injury inflicted by the applicant but hopes that the prisoner will not repeat the offence. The Applicant's husband stated that the complainant is a wife to accused's brother and as a family, they have decided to forgive him.
9. The area administrator stated that the applicant is a habitual drunkard and alcoholism may have contributed to his action and hoped he has changed while in prison so that he may fit well in the community.
10. The applicant attributes the offence to alcoholism and anger arising from provocation by the complainant but has had a chance to reflect on his action and its consequences and has learnt to control his anger and seek alternative means of resolving conflict. The Applicant's sister in law has decided to forgive the prisoner so as to foster peaceful co-existence between the two families. The area administrator promised to supervise the applicant if released.
11. The probation officer's opinion is that the home environment is not hostile to the prisoner and he may be reintegrated back into the community if this court's it appropriate.

### **Determination**

12. The applicant urges this court to exercise its supervisory authority provided by Article 165 (6) of the *Constitution* and Section 362 and 364 of the *Criminal Procedure Code*. The applicant stated that he is remaining with one year 10 Months to complete sentence imposed by trial court. He says he says for the 2 years and 11 months period he has been in remand, he had had time to reflect on his action and has learnt to manage his anger.
13. The objectives of sentencing are outlined in the 2023 *Judiciary of Kenya Sentencing Policy Guidelines* at page 15, paragraph 4.1 as follows:
  - Retribution: To punish the offender for his/her criminal conduct in a just manner.
  - Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
  - Rehabilitation: To enable the offender reform from his criminal disposition and become a law abiding person.
  - Restorative justice: To address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims', communities' and offenders' needs and justice demands that these are met. Further, to promote a sense of responsibility through the offender's contribution towards meeting the victims' needs.



Community protection: To protect the community by incapacitating the offender.

Denunciation: To communicate the community's condemnation of the criminal conduct.”

14. In view of the above, I take note of the fact that the local administrator and the victim have agreed to forgive and together with the family who are also accused's family have agreed to forgive accused. From the foregoing that the applicant has made amend and the home environment is not hostile to him and he suitable for reintegration back into the community.

#### **Final Orders**

15. Applicant to serve probation sentence for the remaining period of sentence imposed by the trial court.

**JUDGMENT DELIVERED, DATED AND SIGNED VIRTUALLY AT ELDAMA RAVINE HIGH COURT (SUB-REGISTRY) THIS 13TH DAY OF JUNE 2024.**

**RACHEL NGETICH**

**JUDGE**

