



**Korir v Republic (Miscellaneous Criminal Application E147 of 2021)
[2024] KEHC 12422 (KLR) (17 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 12422 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CRIMINAL APPLICATION E147 OF 2021**

**JM NANG'EA, J
OCTOBER 17, 2024**

BETWEEN

GEOFFREY KORIR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was on 13/3/2018 convicted in the Chief Magistrate's Court at Molo (Hon. Rita Amwayi – RM) of the offence of Defilement Contrary to Section 8(1) as read with Section 8(4) of the *Sexual Offences Act* No. 3 of 2006 in Criminal Case No. 633 of 2016. In mitigation for sentencing he told the court that he was providing for his six (6) siblings since his mother was ailing. The Applicant therefore urged the court for leniency.
2. The prosecutor (Ms Ndegwa) noted that the victim (FC) was 17. She advocated for a severe sentence as provided for in Section 8(4) of the above stated statute.
3. The learned trial magistrate agreed with the prosecuting Counsel and sentenced the Applicant to fifteen (15) years imprisonment which is the minimum sentence prescribed by law.
4. The Applicant preferred an appeal to this court, vide Criminal Appeal No. 29 of 2017 against both conviction and sentence. The record of these proceedings indicates that the appeal was subsequently withdrawn and this application seeking the Applicant's re-sentencing before this court was brought instead. In particular, I am urged to invoke Section 333 of the *Criminal Procedure Code*.
5. Section 333 (2) of the *Criminal Procedure Code* in its proviso:

“where a person sentenced under Sub Section (1), has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody.”



6. The trial court's record does not show that this statutory provision was complied with. In the result, it is ordered that the fifteen (15) - year prison sentence meted out against the applicant will be effected from the date of his arrest on 1/3/2016. The Officer in Charge of prison will, however, take into account that the applicant was briefly out on bond between 10/1/2017 and 7/2/2017 on which latter date his surety withdrew.
7. Ruling accordingly.

J. M. NANG'EA

JUDGE

Ruling Delivered This 17th Day Of October 2024 In The Presence Of:

The state,

The Applicant, present

The Court Assistant, Jennifer

