



REPUBLIC OF KENYA



**Ochola v Republic (Miscellaneous Criminal Application  
E011 of 2023) [2023] KEHC 992 (KLR) (16 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 992 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
MISCELLANEOUS CRIMINAL APPLICATION E011 OF 2023  
RE ABURILI, J  
FEBRUARY 16, 2023**

**BETWEEN**

**KEVIN OUMA OCHOLA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application for sentence review in Judgment,  
conviction and sentence in Bondo PM SO No. 97/2014)*

**RULING**

1. The applicant Kevin Ouma Ochola was convicted and sentenced to serve 15 years imprisonment for the offence of gang rape contrary to Section 10 of the *Sexual Offences Act*, vide Bondo PM SO Case No 97/2014. The conviction was on October 8, 2014 according to his application and affidavit. He also claims that he was arrested on June 9, 2014 and that during sentencing, the trial court never took into account the period of 4 months that he spent in prison custody before being sentenced.
2. I have considered the application and affidavit. I have also perused the annexed committal warrant to prison dated October 8, 2014 which shows the offence, conviction and sentence imposed by Bondo PM's court.
3. I am in agreement that the trial court never took into account the period spent in custody at the time of sentencing as required by Section 333(2) of the *Criminal Procedure Code*.
4. For the above reason, I find the application dated February 2, 2023 merited. I allow it and order that the 15 years imprisonment imposed on the convict herein Kevin Ouma Ochola shall be calculated from June 9, 2014 the date of his arrest.
5. I so order.
6. File closed.



**Dated, signed and delivered at Siaya this 16<sup>th</sup> Day of February, 2023**

**R.E. ABURILI**

**JUDGE**

