



**Peter v Republic (Miscellaneous Criminal Application 219 of 2019)
[2023] KEHC 654 (KLR) (Crim) (7 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 654 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
MISCELLANEOUS CRIMINAL APPLICATION 219 OF 2019
DO OGEMBO, J
FEBRUARY 7, 2023**

BETWEEN

JACOB KAMURE PETER APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Dated March 22, 2019 and filed herein on May 7, 2019. The same application seeks revision of the sentence of the applicant so as to give account to the period the applicant served in remand custody, pursuant to Section 333(2) of the *Criminal Procedure Code*. The applicant has deponed that he spent a period that was not factored in the sentence imposed.
2. In the short objection, the prosecution left the matter to the court to decide.
3. I have considered this application. I have also considered the record of proceedings of the trial court. The applicant was charged with 2 counts of robbery with violence contrary to Section 296(2) of the *Penal Code*. He was first arraigned before the court on July 22, 2013. He was eventually convicted and sentenced to serve 10 years imprisonment on each count. This was on November 7, 2018.
4. I have considered the sentence proceedings of November 7, 2018. The applicant was accorded the opportunity to mitigate which he duly did through his advocate. And in sentencing the applicant, the court noted as follows:-

“I have considered the mitigation by the accused as well as the pre-sentence report herein. However, the offences here are of a serious nature calling for a deterrent sentence. I do also take note that the accused has been in remand since 2013....”



5. The court went on to pass the applicant to serve 10 years imprisonment on each count, the same to run concurrently.
6. The sentence provided for under section 296(2) of the *Penal Code* reads;-

“If the offender is armed with any dangerous or offensive weapon or instruments, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of such robbery, he wounds, beats, strikes or uses any other personal violence to any person, he shall be sentenced to death.”
7. It is clear that in sentencing the applicant, the trial court duly considered the period the applicant had spent in remand awaiting determination of his case. The sentence meted out is also proper and legal. This application therefore lacks any merit. I dismiss the same wholly. Orders accordingly.

D. O. OGEMBO

JUDGE

7th FEBRUARY, 2023

COURT:

RULING READ OUT IN COURT (ON-LINE) IN PRESENCE OF THE APPLICANT AND MS. ADHIAMBO FOR STATE

D. O. OGEMBO

JUDGE

7th FEBRUARY, 2023.

