



**Omondi v Republic (Criminal Revision E351 of 2021)  
[2023] KEHC 1553 (KLR) (Crim) (1 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 1553 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL  
CRIMINAL REVISION E351 OF 2021**

**LN MUTENDE, J**

**MARCH 1, 2023**

**BETWEEN**

**GEOFFREY OMONDI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Geoffrey Omondi, the applicant, was charged with the offence of rape contrary to section 3(1) of the *Sexual Offences Act*, following allegations of having violated sexually GA.
2. Having been taken through full trial he was found guilty, convicted and sentenced to serve seven (7) years imprisonment.
3. In an undated application filed herein on August 26, 2021, the applicant seeks review of the sentence on the ground that the trial court did not consider time spent in custody as required by section 333(2) of the *CPC*.
4. In its order, the trial court stated thus:

“Presentence report and the period spent in custody considered. Accused is sentenced to serve (7) years.”
5. This being the case, this court has nothing to review. The court complied with section 333(2) of the *CPC* which provides that:

Subject to the provisions of section 38 of the *Penal Code* (cap 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code.



Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody

6. Accordingly, the application is devoid of merit. It is therefore dismissed.

7. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY  
THROUGH MICROSOFT TEAMS AT NAIROBI,  
THIS 1<sup>ST</sup> DAY OF MARCH, 2023.**

**L. N. MUTENDE**

**JUDGE**

