



**Masa v Republic (Miscellaneous Criminal Application  
E069 of 2022) [2023] KEHC 3314 (KLR) (13 April 2023) (Ruling)**

Neutral citation: [2023] KEHC 3314 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E069 OF 2022**

**RE ABURILI, J  
APRIL 13, 2023**

**BETWEEN**

**LUCAS HURA MASA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant/Convict Lucas Hura Masa was convicted and sentenced to serve fifteen (15) years imprisonment in count 1 of defilement contrary to Section 8(1) as read with Section 8(3) of the [Sexual Offences Act](#) and fined Kshs 10,000/= in default to serve three (3) months imprisonment for the offence of escaping from lawful custody.
2. The trial took place at Rongo Law Courts vide Rongo Principal Magistrate's Court Criminal Case No 329 of 2014.
3. He seeks for resentencing to take into account one (1) year and four (4) months spent in remand custody.
4. As Rongo Principal Magistrate's Court falls within the jurisdiction of Migori High Court, this court cannot call for the trial court record to confirm the allegations that the convict was held in custody pending trial. Whereas this matter could have been transferred to Migori High Court a while ago, it has taken so long for the matter to be considered.
5. In the premises, as the convict has another opportunity to file a fresh petition free of charge, at Migori High Court for consideration on its merits, I hereby find that the application herein was misdirected. It is hereby dismissed.
6. Order to be extracted and served.
7. File closed.



DATED, SIGNED AND DELIVERED AT KISUMU THIS 13<sup>TH</sup> DAY OF APRIL, 2023

R. E. ABURILI

JUDGE

