



**Ngetich v Republic (Criminal Revision E376 of 2022)
[2023] KEHC 18698 (KLR) (21 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18698 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL REVISION E376 OF 2022**

HK CHEMITEI, J

JUNE 21, 2023

BETWEEN

GODWIN KIPKURUI NGETICH APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offences of attempted arson contrary to section 333(a) of the penal code, threatening to kill contrary to section 223(1) of the *Penal Code*, malicious damage to property contrary to section 339(1) of the penal code and creating disturbance contrary to section 95(1) of the penal code.
2. He was sentence to serve five and two years' imprisonment for the 1st and second count and six months respectively for the last two counts.
3. The applicant has sought revision of the said sentences on the grounds that he was remorseful, terminally ill after his leg was amputated as a result of a road accident and that the complainant who was his mother was ready to forgive him.
4. The learned state counsel opposed the application on the grounds that the grounds for revision are clear and what the applicant had advanced was not one of them. He deponed in the replying affidavit dated February 6, 2023 that the applicant has not demonstrated that the sentence was illegal, improper or incorrect. He prayed that the same be disallowed.
5. The court has perused the record by the trial court and it is apparent that the applicant admitted the offences. In his mitigation he said that he was remorseful. The court took into consideration the probation report which was not favourable to the applicant.



6. It is true that the complainant one CJK the mother to the applicant in her affidavit dated December 2, 2022 has indicated that she had forgiven her son and she be allowed to go back home and take care of his two children and the wife. She also prayed that he be released so that he can continue with medication on his amputated leg.
7. The law on revision is anchored under section 362 and 364 of the *Criminal Procedure Code* Chapter 75 Laws of Kenya. Section 362 states in particular that;

' The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.'
8. It is clear that this court will only intervene in respect to correctness, legality or propriety of any finding, sentence or order recorded or passed and regularity of any proceedings.
9. Based however on the reasons that the Applicant's amputated leg shall need medical attention and the reasons advanced by her mother, it is the consideration of this Court that the period he has been in custody has served well as a lesson.
10. In the circumstances, the applicant is set free from custody and shall serve a probation period of three (3) years from the date herein as shall be advised by the relevant probation office.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 21ST DAY OF JUNE 2023

H. K. CHEMITEI

JUDGE

