



**Yegon v Republic (Criminal Revision E033 of 2024)
[2024] KEHC 11562 (KLR) (1 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 11562 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E033 OF 2024
DR KAVEDZA, J
OCTOBER 1, 2024**

BETWEEN

ALBERT KIPKURUI YEGON APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged, convicted and sentenced for the following offences:
 - i. Counts I & II stealing motor vehicle contrary to section 278A of the Penal Code - fine of Kshs 100,000 in default to serve 3 years imprisonment on each count;
 - ii. Counts V & VI of forgery contrary to section 349 of the Penal Code - fine of Kshs 100,000 in default to serve 3 years imprisonment on each count;
 - iii. Counts VII and VIII of making a document without authority contrary to section 357 (A) of the Penal Code - fine of Kshs 100,000 in default to serve 3 years imprisonment on each count;
2. The applicant has filed an application seeking sentence review. He urged the court to consider the time spent in remand custody pursuant to the provisions of section 333 (2) of the Criminal Procedure Code.
3. From the record, I note that the sentence imposed by the trial court was not a custodial sentence but the payment of a fine. The custodial sentence arises from the failure to pay the fine imposed by the trial court. In the premises, the provisions of section 333 (2) of the Criminal Procedure Code are not applicable.
4. As for the fines imposed for the offence, it was at the court’s discretion. However, regarding the default sentence, the trial court erred in respect imposing a 3-year default sentence. The default sentence ought to have been 12 months imprisonment under section 28 (2) of the Penal Code, Cap 63 Laws of Kenya.



5. In the premises I hereby set aside the sentence of a fine of Kshs. 100,000 in default to serve 3 years on each count and substitute it with the payment of a fine of Kshs. 100,000 in default to serve 12 months imprisonment on each count. The sentences shall run consecutively.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 1ST DAY OF OCTOBER 2024.

D. KAVEDZA

JUDGE

