



**Manyala v Republic (Miscellaneous Criminal Application E156 of 2024)
[2024] KEHC 14529 (KLR) (20 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14529 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E156 OF 2024
RE ABURILI, J
NOVEMBER 20, 2024**

BETWEEN

JOSHUA OMONDI MANYALA APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Maseno Senior
Principal Magistrate's Court Criminal Case No. E019 of 2023)*

RULING

1. This matter is similar to Revision No. E279 of 2024 where the Applicant convict Joshua Omondi Manyala is the same and both files arise from Maseno SPM Criminal Case No. E019 of 2023.
2. The Convict/Applicant was sentenced to serve 3 years' imprisonment on 30th July 2024 by Hon. C. L. Yalwala, SPM, for the offence of assault causing actual bodily harm. He has not appealed.
3. The complainant is his cousin. They had quarrelled over a land dispute. Pending trial, the applicant was released on cash bail of Kshs.10,000 but he absconded on 24th July 2023 hence the cash bail was forfeited on 10th August 2023 and he remained in custody until the case was heard and concluded.
4. In his application for sentence review dated 16th August, 2023, he pleads that following his conviction, him and the complainant and their families agreed to reconcile so that there can be peace and co-existence among them.
5. He filed into court a document title "Arbitration between Isaac Omondi Mbala and Joshua Omondi Manyala family. It is dated 7th August 2024 on the letter head of Assistant Chief, Dago Sub-location. On the said document, it is stated that the complainant Isaac Omondi Mbala had forgiven the convict. The complainant's Identity Card No. 32xxxx15 and signature and names of 2 family members



Caroline Atieno Ochieng and Silas Otieno Obura are also present, with signatures and witnessed by the Assistant Chief, Dago Sub-location, Mark Onyange.

6. I then called for sentence Review report which was filed on 18th November 2024 by Everlyne Kemunto, Probation Officer, Maseno.
7. The report shows remorse on the part of the convict while the complainant was not contacted but that the area Chief who was contacted confirmed that he was steering arbitration between the two cousins.
8. The offender is aged 40 years and is married although the number of children is not indicated. His family are supportive. Non-custodial sentence is recommended.
9. As the sentence imposed is 3 years, part of which the offender has served only 3 years plus the period he was in remand custody pending trial after forfeiture of cash bail, and in the spirit of prison decongestion and in order to promote reconciliation between the convict and his cousin brother complainant, I hereby exercise discretion and order that the convict Joshua Omondi Manyala shall be released from prison to serve probation to be guided and counselled on conflict resolution and anger management for a period of twelve (12) months from the date of release.
10. The Ruling to be served upon the Probation Officer for necessary action.
11. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 20TH DAY OF NOVEMBER, 2024

R. E. ABURILI

JUDGE

