



**Ochieng v Republic (Miscellaneous Criminal Application
E219 of 2024) [2024] KEHC 13728 (KLR) (7 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 13728 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CRIMINAL APPLICATION E219 OF 2024
RE ABURILI, J
NOVEMBER 7, 2024**

BETWEEN

DANCAN OUMA OCHIENG APPLICANT

AND

REPUBLIC RESPONDENT

*(From the original conviction and sentence in Nyando Senior
Principal Magistrate's Court Criminal Case No. 1886 of 2005)*

RULING

1. The applicant Dancan Ouma Ochieng was convicted vide Nyando SPM Criminal Case No. 1886 of 2005 for the offence of Robbery with violence contrary to Section 296 (2) of the Penal Code and sentenced to death.
2. On appeal vide HCCRA No. 181 of 2013 the court reduced the sentence to 30 years' imprisonment. He then went to the Court of Appeal vide HCCRA No. 264 of 2015 which dismissed his appeal.
3. He came back to this court vide Misc. Application No. E078 of 2021 seeking for orders that the period he spent in custody prior to sentencing be taken into account.
4. Vide a Ruling dated 3rd February 2022, Hon. F. A. Ochieng J allowed the application under Section 333 (2) of the Criminal Procedure Code. The convict is back again vide his application dated 24th October 2024 seeking for consideration of Section 333 (2) of the Criminal Procedure Code as read with Article 50(2) (p) of the Constitution so that he benefits from a less severe sentence.
5. I have considered the application and perused all the files where the convict/applicant herein has been heard by this court and Section 333(2) of the Criminal Procedure Code considered.
6. I find the application dated 24th October 2024 to be an abuse of the court process. It is hereby dismissed.



7. Signal to issue.

8. File is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 7TH DAY OF NOVEMBER, 2024

R. E. ABURILI

JUDGE

