



**Radak v Republic (Criminal Miscellaneous Application E066 of 2024)
[2024] KEHC 14309 (KLR) (8 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14309 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL MISCELLANEOUS APPLICATION E066 OF 2024
RE ABURILI, J
NOVEMBER 8, 2024**

BETWEEN

PETER OKOTH RADAK APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Peter Okoth Radak is a convict in Ukwala PM Sexual Offence Case No. 41/2018 where he was tried and sentenced to serve 10 years imprisonment on 7/8/2019, for the offence of Incest contrary to Section 20 (1) of the *Sexual Offences Act*. He defiled and fathered a child with his niece.
2. He now applies vide his application dated 13/6/2024 that the one year spent in remand custody be considered in the sentence imposed.
3. I have perused the Notice of Motion and the trial court record. The convict was arrested on 29/9/2018 according to the charge sheet dated 3/10/2018. The trial magistrate granted him bond of Kshs 250,000/= plus one surety of similar amount on 3/10/2018 after taking the plea.
4. There is no evidence that he was released on bond. The sentence passed on 7/8/2019 did not take into account the period spent in custody during the trial as required under Section 333 (2) of the *Criminal Procedure Code*. Accordingly, I allow the application and order that the ten year's imprisonment shall be calculated from date of arrest on 29/9/2018. Signal to issue.
5. This file is closed. I so order.

RULING DATED, SIGNED AND DELIVERED THIS 8TH DAY OF NOVEMBER, 2024.

R. E . ABURILI

JUDGE

