

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

MISC. CRIMINAL APPLICATION NO. 31 OF 2020

STEPHEN KITONGA MULWA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant was charged with the offence of **murder** and was convicted and sentence to serve 15 years' imprisonment on **17th April 2018**. He did not prefer any appeal.
2. He has file the notice of motion dated 6th February 2021 praying that the court does under **Section 333(2) of the Criminal Procedure code** take into consideration the four years he had spent in prison while the matter was being heard.
3. The learned state counsel did not oppose the application but requested the court to take into consideration that a life was lost courtesy of the applicant's action.
4. The court has perused the ruling of the court during sentencing and it is clear that my sister Odero J took into consideration the fact that the applicant had been in custody for close to 5 years. This court therefore would be sitting as an appellate court against the same.
5. In the premises the application is not meritorious and the same is dismissed.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 15TH DAY OF JULY 2021.

H K CHEMITEI

JUDGE