



**Cheruiyot v Republic (Miscellaneous Criminal Application
E089 of 2025) [2025] KEHC 14621 (KLR) (7 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14621 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CRIMINAL APPLICATION E089 OF 2025**

**JM NANG'EA, J
OCTOBER 7, 2025**

BETWEEN

ISAAC CHERUIYOT APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant prays for invocation of the Provisions of Section 333(2) of the Criminal Procedure Code in his sentencing so that the period he was in remand custody awaiting trial is taken into account. The Application is brought vide a Notice of Motion dated 28th May 2025 filed herein.
2. The Prosecution Counsel does not oppose the Application.
3. The lower court had convicted and sentenced him to a fine of Kshs. 400,000 or 5 (five) years in prison in default, for the offence of causing Grievous Harm contrary to Section 234 of the Penal Code. The particulars of the offence are as follows;

“Isaac Cheruiyot: On the 17th day of April 2023 at around 2300hrs at Kamaech village in Sururu Location of Njoro Sub-County within Nakuru County you intentionally and unlawfully did grievous harm to Vincent Kipkirui Koech by assaulting him with a sharp object (panga)”(sic)
4. The Applicant entered plea of not guilty. After full trial trial he was convicted and sentenced as stated hereinabove.
5. Having perused the record of the trial court, it is noted that Section 333(2) of the Criminal Procedure Code was not complied with. It is further noted that the Applicant was arrested on 11/06/2023 and it is not shown that he was thereafter released on bond/bail. He was therefore in custody throughout the trial.



6. The Application is allowed and it is directed that the Applicant's 5 (five) years prison term shall commence from the date of his arrest on 11/06/2023.

RULING DELIVERED THIS 7TH DAY OF OCTOBER, 2025 IN THE PRESENCE OF:

J. M. NANG'EA, JUDGE.

Mr Wakasyaka for the DPP.

The Applicant, present.

The Court Assistant (Jeniffer).

