



REPUBLIC OF KENYA



KENYA LAW
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**Kusow v Republic (Criminal Application E020 of 2025)
[2025] KEHC 14080 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14080 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL APPLICATION E020 OF 2025
WM KAGENDO., J
OCTOBER 2, 2025**

BETWEEN

ISSA KUSOW APPLICANT

AND

REPUBLIC RESPONDENT

*(Revision of sentence in Criminal SO of 26 of 2019 at the Chief Magistrates
Court Mombasa on 1st September, 2021 by Hon E NYALTI CM)*

RULING

1. By way of an undated Notice of Motion brought under sections 364 and Sec 333 (2) of the Criminal Procedure Code. The applicant moved the court for orders that the period spent in remand custody be computed into twenty (20) year sentence pursuant to the provisions of Section 333 (2) of the Criminal Procedure Code,.
2. The background is that the applicant was charged, convicted and sentenced for the offense of defilement contrary to Section 8 (3) of the [sexual offences act](#).
3. The instant application is propped on grounds that the period the applicant spent in remand custody was not computed in the (20) year sentence whilst under Article 50 (2) (p) of the COK provides that an accused person should have the benefit of the least severe punishments of an offence.
4. The applicant relied on the authority in Abolifath Mohamed vs R.

Analysis and Determination

6. I have considered the application, noting that the same is not opposed by the respondent. Indeed, Article 50 (2) (p) (q) of the COK gives the Court the general power to review the decisions of the subordinate courts;



...

“(2) if convicted, to appeal to, or apply for review by, a higher court as prescribed
(q) by law.”

7. Equally, this court’s revisionary jurisdiction is provided for under Section 362 of the Criminal Procedure Code.

“362. The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.”

8. I have however noted that the accused person was granted bond. He was not able to meet the initial terms and they were revised further and a surety was approved on 3/4/2019 and a release order prepared.

9. This shows that the Applicant is not very generous with the truth. He who comes to equity must come with clean hands.

10. The Application is therefore dismissed.

11. The applicant is advised to concentrate on true rehabilitation and not on how to cheat the system.

12. It os so ordered

**DATED, SIGNED & DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS, THIS
02ND DAY OF OCTOBER 2025**

HON. LADY JUSTICE W. K. MICHENI JUDGE

In the presence of the applicant in person Mr Sirima for the state

Bebora court assistant

SIGNED BY/FOR:

HON. LADY JUSTICE WENDY MICHENI

