



**Lemunga v Republic (Criminal Revision E044 of 2025)
[2025] KEHC 14618 (KLR) (15 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14618 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL REVISION E044 OF 2025
RB NGETICH, J
OCTOBER 15, 2025**

BETWEEN

BENSON LEMUNGA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with offence of Burglary contrary to section 304(2) of the penal code. Particulars are that on 17th December 2023 at about 21:30Hrs at Terebe area in Baringo central subcounty within Baringo county, accused unlawfully and without consent stole a motor cycle make TVS Star valued at Kshs 92,000 belonging to Joseph Tuitoek.
2. Upon conviction, he was sentenced to 3 years imprisonment and he now seeks revision of sentence so as to serve probation sentence as per section 362 of the CPC and article 50(2)(p) of *the constitution*.
3. When the applicant appeared before court on 21st July 2025, the prosecution counsel informed court that they oppose revision of sentence and urged court to call for social inquiry report which was filed as directed.

Social Inquiry Report

4. From the report the local chief indicated that the applicant has several cases of breaking and stealing in the area and that he had previously been arrested, charged and convicted of similar offence and sentenced but was later released on revision.
5. Community members interviewed said the applicant is not a good person and that he is known for recruiting young boys to criminality. That in respect to this offence, he used the complainant's son to assist know where the complainant kept her money. Most people interviewed opposed his revision of sentence.



6. Prison authorities report indicate that the applicant is sickly suffering from acidity and is on medication and due to his poor health, he performs light duties and has not done any course.
7. When interviewed, the applicant stated that he stole from the complainant kshs 60,000 because she was his employer and had not paid him salary. From the report, he does not appear remorseful and is not ready for reconciliation.

Determination

8. This application invokes the Court's revisionary powers under Sections 362 and 364 of the Criminal Procedure Code, which empower the Court to review sentences that are illegal, improper, or founded on error.
9. Sentencing serves multiple objectives, including retribution, deterrence, rehabilitation, restorative justice, community protection, and denunciation (Judiciary Sentencing Policy Guidelines, 2023).
10. From the sentiments given by the local administration and the community, the applicant is not a first offender and was influencing young boys into crime. He is not also remorseful for the offence herein. Even though prison authorities say the applicant is sickly, I note that the community is not willing to accept back. In view of the above, am inclined to decline applicant's prayer for review of sentence.
11. Final orders: -
 - a. The sentence imposed on the Applicant is hereby declined.
 - b. The prison authorities shall ensure that arrangements are made for the Applicant to complete the training and sit the examination.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 15TH DAY OF OCTOBER, 2025.

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RACHEL NGETICH

JUDGE

In the presence of:

Ms. Bartilol for State.

Applicant present.

CA, Momanyi.

