



**Maundu alias Domi v Republic (Miscellaneous Criminal Application
E148 of 2025) [2025] KEHC 13864 (KLR) (6 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13864 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E148 OF 2025**

DR KAVEDZA, J

OCTOBER 6, 2025

BETWEEN

DOMINIC MAUNDU ALIAS DOMI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and convicted for the offence of defilement contrary to section 8(1) as read with 8(2) of the Sexual Offences, No. 3 of 2006. He was sentenced to serve fifteen (15) years imprisonment.
2. He has filed the present undated application received on 27th June 2025 seeking sentence review. The grounds raised in support of the application are that the trial court and this court failed to consider the time spent in remand custody during the computation of his sentence.
3. I have considered the application, the affidavit in support and the applicable law. I have also considered the trial court record. The issue for consideration is whether the trial court considered the time the applicant spent in remand custody.
4. The proviso to section 333 (2) of the Criminal Procedure Code obligates the court to take into account the time already spent in custody. The duty to take in account the period an accused person had remained in custody in sentencing under the proviso to section 333(2) of the Criminal Procedure Code which is couched in mandatory terms was acknowledged by the Court of Appeal in *Ahamad Abolfathi Mohammed & Another vs. Republic* [2018] eKLR and *Bethwel Wilson Kibor vs. Republic* [2009] eKLR and more recently in the High Court case of *Vincent Sila Jona & 87 others vs Kenya Prison Service & 2 others* [2021] eKLR.



5. It is therefore clear that it is mandatory that the period which an accused has been held in custody prior to being sentenced be taken into account in meting out the sentence where it is not hindered by other provisions of the law.
6. From the record, the applicant was arrested on 13th September 2024. He was arraigned in court for take plea and was in custody for the entirety of his trial until his conviction on 17th April 2025. He, therefore, spent seven (7) months and four(4) days in remand custody. From the record, it is clear that the period was not factored in during his sentencing. Guided by the law, the court is of the view that the application ought to be considered, as failure to do so would amount to denying the applicant a right due to the failure of the court to discharge an obligation bestowed upon it by law.
7. I thus allow the application. In the premises, I make the following orders: the sentence of fifteen (15) years imprisonment shall run from 13th September 2024 the date of the applicant's arrest pursuant to section 333(2) of the Criminal Procedure Code.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 6TH DAY OF OCTOBER 2025

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D. KAVEDZA

JUDGE

