



**Molo v Republic (Criminal Revision E149 of 2023)  
[2025] KEHC 13953 (KLR) (6 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13953 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL REVISION E149 OF 2023  
DR KAVEDZA, J  
OCTOBER 6, 2025**

**BETWEEN**

**AINEAR JAIRO MOLO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant was charged and convicted for the offence of attempted defilement contrary to section 9(1) as read with section 9(2) of the *Sexual Offences Act*, No. 3 of 2006. He was sentenced to serve ten years imprisonment.
2. He has now filed an undated application received 28<sup>th</sup> July 2025 seeking sentence review. The arguments raised in support of the application are that the trial court failed to consider the time she spent in reman custody during the computation of sentence. He urged the court to issue the orders sought.
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. I have perused the trial court record, specifically the sentencing proceedings. I note that during sentencing, the trial court directed that applicant's sentence to run from the date of his arrest. The time spent in remand custody was therefore considered.
7. The upshot of the above is that the application is dismissed for lacking in merit.

Orders accordingly.

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

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**D. KAVEDZA**

**JUDGE**

