



**Rotich v Republic (Criminal Revision E037 of 2025)
[2025] KEHC 14592 (KLR) (15 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14592 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL REVISION E037 OF 2025
RB NGETICH, J
OCTOBER 15, 2025**

BETWEEN

BRIAN ROTICH APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with offence of stealing a motor cycle contrary to section 279(a) of the penal code. 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](#).
2. When the applicant appeared before court on 5th June 2025, the applicant said he was remaining with 1 year 1 month to complete sentence. The prosecution counsel informed court that the society is not willing to accept the applicant back.

Social Inquiry Report

3. From the report the applicant is aged 24 years. He dropped out of college. His family is disintegrated his parents having separated when he was 5 years old and he is said to have grown up under the care of his Aunt. He is married with a 2 year old child and his wife is a salonist in Marigat. His Aunt is for review of sentence but she is not ready to assist him compensate the victim his motorbike and reconcile with the applicant. She claims that the applicant is in prison for an offence he never committed and there is therefore no need to reconcile with the victim.
4. From the report, the applicant is not remorseful and is not ready to reconcile with the victim.



5. Community leaders interviewed stated that the community is still bitter towards the applicant and was saved by leaders from being lynched and was involved in an accident in the process of escaping from the mob. They say there is fear that he may be harmed by members of public if released.

Determination

6. 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.
7. Sentencing serves multiple objectives, including retribution, deterrence, rehabilitation, restorative justice, community protection, and denunciation (Judiciary Sentencing Policy Guidelines, 2023).
8. From the sentiments given by the local administration the applicants safety will be threatened if released. They say the community who attempted to lynch him are still bitter. I also note that the applicant is not remorseful and is not willing to reconcile with the victim.in view of the fact that there is no reconciliation between applicant and complainant and looking at the circumstances surrounding the offence, I am of the view that the applicant’s safety will be compromised is allowed to serve non-custodial sentence.

Final Orders: -

Application for revision of sentence is hereby declined.

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.

