



**Rono v Republic (Miscellaneous Criminal Application E025 of 2025)  
[2025] KEHC 14595 (KLR) (7 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14595 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
MISCELLANEOUS CRIMINAL APPLICATION E025 OF 2025**

**JM NANG'EA, J  
OCTOBER 7, 2025**

**BETWEEN**

**ONEMUS KIPCHIRCHIR RONO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant prays for invocation of the Provisions of Section 333(2) of the *Criminal Procedure Code* in his sentencing so that the period he was in remand custody awaiting trial is taken into account. The Application is brought vide a Notice of Motion dated 18<sup>th</sup> February 2025 filed herein.
2. The Prosecution Counsel (Daniel Wakasyaka) opposes the Application vide affidavit evidence in reply. He states that the Applicant's claim that he was in custody throughout his trial is not entirely true. On the contrary, he is said to have been in custody for only 21 days after which he was released on bond. According to Counsel, this period "may not have much effect on his current sentence ...."
3. The Chief Magistrate's Court at Molo had convicted and sentenced the Applicant to 20 (twenty) years in prison for the offence of Defilement contrary to section 8(1) (3) of the *Sexual Offences Act* No. 3 of 2006. The victim was a 13-year old child only named as CC.
4. The Applicant entered plea of not guilty. After full trial he was convicted and sentenced as stated hereinabove. He lodged appeal to this court (HCRA No. E049 of 2022) and the conviction was upheld by my brother H K Chemitei). The sentence of 20 years was, however, substituted for a more lenient prison term of 12 years.
5. Having heard the parties and perused the record of the trial court, the Applicant does not contest the Prosecution's position that he was only partly in remand custody. As to whether or not Section 333(2) of the *Criminal Procedure Code* was complied with, the issue is moot. The reduced 12 years imprisonment was directed to be served from the 20<sup>th</sup> of September 2023 when the court rendered its



decision. Interfering with a decision of a court of concurrent jurisdiction offends the well established doctrine of *stare decisis* which is frowned upon.

6. The Application is therefore dismissed as lacking in merit.

**RULING DELIVERED ON THIS 7<sup>TH</sup> DAY OF OCTOBER, 2025.**

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**J. M. NANG'EA**

**JUDGE**

In the presence of:

Mr Wakasyaka for the DPP.

The Applicant's Advocate, Mr Bore.

The Court Assistant (Jeniffer).

