



REPUBLIC OF KENYA



**Shikono & another v Republic (Criminal Revision 77 of 2023)
[2025] KEHC 14383 (KLR) (13 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14383 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 77 OF 2023
DR KAVEDZA, J
OCTOBER 13, 2025**

BETWEEN

FELIX SHIKONO 1ST APPLICANT

JULIUS EDWARD 2ND APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and after a full trial convicted for the offence of grievous harm contrary to section 234 of the Penal Code. They were sentenced to serve five (5) years imprisonment.
2. In the application before court to review the sentence. The arguments raised are that the trial court failed to consider the time spent in remand custody during the computation of sentence under the provision of section 333(2) of the Criminal Procedure Code, Cap 75 of the Laws of Kenya.
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 consider 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 considered in meting out the sentence where it is not hindered by other provisions of the law.
6. From the record of the court, the applicants were arrested on 14th March 2023 and were released on bail on 4th August 2023. 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 applicants a right due to the failure of the court to discharge an obligation bestowed upon it by law.
7. I thus allow the application. The sentences shall run shall be computed less by four months (4) and twenty one (21) days pursuant to section 333(2) of the Criminal Procedure Code.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 13TH DAY OF OCTOBER 2025

D. KAVEDZA

JUDGE

