



**Manga v Republic (Criminal Revision E022 of 2025)
[2025] KEHC 15249 (KLR) (30 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15249 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL REVISION E022 OF 2025
AN ONGERI, J
OCTOBER 30, 2025**

BETWEEN

RUTH MANGA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Ruth Manga, the Applicant in this case filed a Criminal Revision Application seeking for prayers that the sentence of 12 years meted on her be reviewed and a non-custodial sentence be awarded to her.
2. The Applicant was charged with the offence of sexual assault contrary to Section 5(1)(a)(1) as read with Section 5(2) of the *Sexual Offences Act* No. 3 of 2006.
3. The facts of the offence were that on diverse dates between the month of December 2018 and January 10th 2019 at Mwakingali village in Voi County within Taita Taveta County, the Applicant used her fingers to penetrate the vagina of A.M, a girl aged 5 ½ years.
4. The Applicant pleaded guilty to the charge.
5. The facts of the case were that the Applicant had been sexually assaulting the minor who used to visit the Applicant in a neighboring house where she was working as a house help.
6. On 10th January 2019, the grandmother of the minor received complaints that the minor was experiencing pain in her private parts when being bathed.
7. The minor was taken to River Jordan Hospital where she was examined by the Doctor and a report was made to the Police Station at Voi.
8. At the police station the minor revealed that the Applicant used to assault her sexually and then offer her food.



9. The prosecution produced a P3 form as PExhibit 1 which revealed that the hymen of the minor was broken and there was inflammation of the labia minora which was painful on examination.
10. The trial court convicted the Applicant on her own plea of guilty and sentenced her to 12 years imprisonment.
11. The Revision Application is based on the following grounds contained in the Applicant's supporting affidavit:-
 - i. The Applicant affirmed that she is a female adult, a Kenyan citizen of sound mind, and is therefore competent to swear the affidavit.
 - ii. She stated that she was arrested and charged at SPMS Voi Court before Hon. A. N. Karimi for the offence of Sexual Assault contrary to Section 5(1)(a)(i) as read with Section 5(2) of the *Sexual Offences Act* No. 3 of 2006.
 - iii. She confirmed that she pleaded guilty to the charge and was sentenced to serve 12 years imprisonment.
 - iv. She reported that since her conviction, she has served six years and has one year and eight months remaining to serve.
 - v. She submitted that by pleading guilty, she saved the court's time.
 - vi. She stated that since her imprisonment, she has regretted the incident that led to her conviction.
 - vii. She indicated that she has undergone vocational training and has attained skills in dress making, tailoring, agriculture, knitting, baking, and a bible study course that will enable her to earn a living upon her release.
 - viii. She expressed that she is contrite and remorseful for the offence she committed, regrets her actions, and promises to be a law-abiding citizen for the rest of her life.
 - ix. She affirmed that she is a first offender in the instant case, has never been involved in any other offence, and promises it will never happen again.
 - x. She humbly pleaded and prayed to the Honorable Court to grant her a non-custodial sentence for the remaining period.
12. I have considered the Applicant's Motion for Review of Sentence, this Court exercises its revisionary jurisdiction under Sections 362 and 364 of the Criminal Procedure Code.
13. The Applicant, Ruth Manga, seeks a non-custodial sentence for the remainder of her 12-year term for the offence of Sexual Assault, to which she pleaded guilty.
14. The principles guiding this Court in such an application are well settled. The court must balance the mitigating factors presented by the offender with the aggravating circumstances of the offence and the broader interests of society.
15. While an offender's reformation is a legitimate objective of sentencing, it cannot eclipse the paramount need for deterrence and retribution, particularly in cases involving grave violations against vulnerable members of society.
16. The mitigating factors in the Applicant's favour are significant and must be accorded due weight. She pleaded guilty to the charge, thereby saving the court's precious time and sparing the young victim the trauma of testifying.



17. Furthermore, she is a first offender, and this Court acknowledges the principle of giving first offenders a second chance where circumstances permit.
18. The Applicant has also demonstrated a commendable effort towards rehabilitation, having acquired vocational skills in dressmaking, tailoring, and other trades, and having undertaken a bible study course. Her expression of remorse and contrition, while a common feature in such applications, appears genuine in the context of her rehabilitative efforts.
19. Sentencing is not static and an offender's progress towards reformation is a relevant consideration.
20. However, these mitigating factors must be evaluated against the gravity of the offence.
21. The Applicant was convicted of sexually assaulting a 5-and-a-half-year-old child by penetrating her vagina with her fingers. The medical evidence confirmed a broken hymen and inflammation of the labia minora.
22. The Court of Appeal in *JWM v Republic* [2018] eKLR stated unequivocally that "sexual offences against children are heinous crimes that call for severe punishment."
23. The vulnerability of the victim, the breach of trust, and the psychological and physical trauma inflicted on a child of such tender years are profound aggravating factors.
24. The sentence of 12 years imprisonment prescribed under Section 5(2) of the *Sexual Offences Act* is not the maximum, but it reflects the legislature's intent to treat such offences with the seriousness they deserve.
25. The primary purposes of sentencing in a case of this nature are deterrence—to send a clear message that the society will not tolerate the violation of its children—and retribution. Even where an offender has been rehabilitated, the nature of the offence may militate against a non-custodial sentence.
26. The court must consider the broader public interest and the need to protect children from such predatory acts.
27. Having served approximately six years of her sentence, the Applicant has a remaining term of one year and eight months. While her rehabilitative progress is laudable, the nature of the crime she committed is so severe that substituting the remainder of her custodial sentence with a non-custodial one would trivialize the offence and undermine the legitimate sentencing goals of deterrence and denunciation.
28. The heinous act committed against a defenseless child warrants a firm custodial sentence to its logical conclusion.
29. Consequently, the application for review of sentence is found to be without merit and is hereby dismissed.
30. The Applicant shall serve the remainder of her sentence as originally imposed.
31. Orders to issue accordingly.

DATED, SIGNED AND DELIVERED THIS 30TH DAY OF OCTOBER 2025 IN OPEN COURT AT VOI HIGH COURT.

ASENATH ONGERI

JUDGE

In the presence of:-



Prosecutor: Mr. Ngigi

Court Assistant: Millicent/Mabishi

The Applicant present in court

