



REPUBLIC OF KENYA



KENYA LAW
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**Muthoni v Republic (Criminal Revision E001 of 2025)
[2025] KEHC 14883 (KLR) (15 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14883 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL REVISION E001 OF 2025
RL KORIR, J
OCTOBER 15, 2025**

BETWEEN

JACKLINE MUTHONI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This revision came to me through an Application filed by the Applicant Idah Kainyu dated 8th January 2025. She sought orders for revision of her sentence upon the court considering her mitigation. Further she specifically prayed to be granted a non-custodial sentence.
2. The Applicant stated in her grounds that she was charged with dealing in alcoholic drinks without licence contrary to section 7(1) (b) as read with section 62 of the *Alcoholic Drinks Control Act* No. 4 of 2010, and upon conviction, was sentenced to a fine of Kshs.60,000/-and in default to serve 2 years' imprisonment. She stated that she was a first offender; a single mother of three (3) children for whom she was the bread winner; that her mother was aged and sickly and; that she undertook not to re-offend.
3. The Applicant file an undated Affidavit whose averments mirror the grounds aforesated.
4. The Application was served upon the Respondents who filed submissions dated 23rd April 2025 in opposition. The gist of their submission was that the court meted a lenient sentence in view of the provisions of Section 62 of the *Alcoholic Drinks Control Act* which provides:-

“Any person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.”



5. At the hearing of the Application on 28th April 2025, the Applicant made oral submissions. She told the court that she was serving a long sentence and her children were suffering at home. She stated that she had acquired skills in the seven months she had served sentence.

Analysis and Determination

6. This court's revisionary jurisdiction is provided under Section 362 of Criminal Procedure Code which states:-

“The High court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.”

7. I called for the trial record and directed the filing of a probation officer's report.
8. With respect to sentence Section 354(ii) of the Criminal Procedure Code empowers the High Court to maintain; reduce or increase sentence. The court may also alter the nature of such sentence.
9. The trial record shows that the Applicant pleaded guilty to the charge of dealing with alcoholic drinks contrary to Section 7(1) as read with Section 62 of the Act. Sixty (60) litres of the illicit brew was produced as exhibit. The Applicant admitted that the brew was hers. She said in mitigation that she had three children in school and she engaged in the illicit trade to raise school fees.
10. The Probation officer's report filed in court on 13th May 2025 stated that the Applicant was a known brewer and the local administration and community were concerned with the impact of her illicit brew on the community. They welcomed the prison sentence as a deterrent measure to discourage others from engaging in similar trade. The Probation officer however noted that the minor children of the Applicant were suffering as she was a single mother having been widowed at an early age. He recommended placement to serve community service order for the remainder of the sentence.
11. I have considered the Application. I agree with the trial court that the illicit brewing and trade in alcohol was a societal menace which ought to be stamped out. I however view the same as a socio-economic problem requiring a multi-faceted approach including socio-economic empowerment and enforcement of the relevant law.
12. I have considered that the Applicant's minor children were exposed to extreme poverty and lack of parental care. The Applicant has stated that she has reformed while in prison custody and has acquired some skills which she will employ for economic sustenance if released.
13. I am persuaded to review the Applicant's sentence and to alter its nature from custodial to non-custodial. She is released from prison to serve the remainder of her sentence on Community Service Order at Kaare Chief's office, which office is also directed to offer close monitoring to deter re-offending. The Probation officer shall accord the necessary supervision.

Orders accordingly.

RULING DELIVERED, DATED AND SIGNED AT CHUKA THIS 15TH DAY OF OCTOBER, 2025.

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R. LAGAT - KORIR
JUDGE



Ruling delivered in the presence of Applicant acting in person, Ms Rukunga for the Republic; Muriuki (Court Assistant)

