



**Njoki v Republic (Criminal Revision 83 of 2025)
[2025] KEHC 15120 (KLR) (27 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15120 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 83 OF 2025
DR KAVEDZA, J
OCTOBER 27, 2025**

BETWEEN

STEPHEN KIMANI NJOKI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and, after a full trial, convicted of the offense of Defilement Contrary to Section 8(1) as read with Section 8(2) of the Sexual Offences Act 2006. He was sentenced to twenty (20) years' imprisonment. He has now filed an application seeking revision of sentence.
2. The applicant being aggrieved he filed to the High Court at Kibera vide Criminal Appeal No. E063 of 2022. Justice Hon. D. Kavedza overturned the initial sentence downward to 10 years on 08/12/2023.
3. The applicant filed the present application dated 5th June 2025 seeking sentence review. He prayed that the time spent in remand custody to be considered during the computation of his sentence.
4. The proviso to section 333 (2) of the Criminal Procedure Code obligates the court to take into account 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 v Republic* [2018] eKLR and *Bethwel Wilson Kibor v 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 taken into account in meting out the sentence where it is not hindered by other provisions of the law.



6. I have perused the original record and I find the trial court considered the mitigation before sentencing the applicant. The court further noted that the time the accused had spent in remand custody would be considered during the computation of the sentence.

7. The upshot of the above is that the application is dismissed for lacking in merit.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 27TH DAY OF OCTOBER 2025

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D. KAVEDZA

JUDGE

