



**Mwangangi & another v Republic (Criminal Revision E099 of 2024)  
[2025] KEHC 16068 (KLR) (4 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16068 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT CHUKA  
CRIMINAL REVISION E099 OF 2024  
RL KORIR, J  
NOVEMBER 4, 2025**

**BETWEEN**

**DANIEL GITONGA MWANGANGI ..... 1<sup>ST</sup> APPLICANT**

**DOUGLAS GITONGA MUTEMBEI ..... 2<sup>ND</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Daniel Gitonga Mwangangi (1<sup>st</sup> Applicant) and Douglas Gitonga Mutembei (2<sup>nd</sup> Applicant) were 4<sup>th</sup> and 2<sup>nd</sup> Accused in Criminal Case No. 2 of 2016. They were charged alongside two others for the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence were that they jointly murdered one Mary Kambura Njoka on 28<sup>th</sup> day of February, 2016 at Nthungu village Twathanju sub-location within Tharaka -Nithi County.
2. At the conclusion of the trial, they were convicted and sentenced on 25<sup>th</sup> July, 2019 to serve 15 and 12 years' imprisonment respectively.
3. The two Applicants have now approached this court with the present undated Application received in court on 16<sup>th</sup> June 2025, seeking orders that their sentences be reduced by the period they spent in pre-trial custody.
4. Their Application is brought on grounds that they were likely to serve an excessive sentence if their pre-trial custody was not taken into consideration as provided by section 333 (2) of the Criminal Procedure Code. They cite the case of Ahamad Abolfathi Mohammed and another vs- Republic [2018] eKLR.
5. Both Applicants filed identical affidavits stating that they had not appealed their conviction and sentence and that they would serve excess sentences if section 333(2) was not taken into account.



6. In identical submission received in court on 16<sup>th</sup> June 2025, the Applicants urged the court to issue a declaratory order for inclusion of the period spent in custody and order that their respective sentences run from the date of arrest.
7. The Respondent on the other hand filed submissions dated 28<sup>th</sup> April 2025. They submitted that failure by the trial court to explicitly state that it considered pre-trial custody or to directly deduct that period did not render the sentence unlawful or defective. That the trial court took all factors into consideration and imposed a sentence which was far below the statutorily provided one.

### **Analysis and determination**

8. Douglas Gitonga Mutembei 2<sup>nd</sup> Applicant (2<sup>nd</sup> Accused) was convicted and sentenced to 12 years' imprisonment while Daniel Gitonga Mwangangi 1<sup>st</sup> Applicant (4<sup>th</sup> Accused) was convicted and sentence to 15 years' imprisonment by Limo J. on 25<sup>th</sup> July 2019.
9. I have perused the skeletal file. On record are Appeals to the Court of Appeal by both Applicants. It was unclear to this court whether the Applicants had withdrawn their appeals or whether the Court of Appeal had acted on the said appeals.
10. In the circumstances, I am disinclined to consider the Application on merit pending clarification on the status of the Applicants' respective appeals. The respective Applications are thus struck out.

Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED AT CHUKA THIS 4<sup>TH</sup> DAY OF NOVEMBER, 2025.**

.....

**R. LAGAT-KORIR**

**JUDGE**

Ruling delivered in the presence of the 1<sup>st</sup> Applicant at Meru Prison and 2<sup>nd</sup> Applicant at Nairobi Remand Maximum Prison acting in person, Ms Rukunga for the Respondent. Muriuki (Court Assistant).

