



**Chelagat v Republic (Criminal Revision E013 of 2025)  
[2025] KEHC 17379 (KLR) (20 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17379 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
CRIMINAL REVISION E013 OF 2025  
RB NGETICH, J  
NOVEMBER 20, 2025**

**BETWEEN**

**FELIX KIPROP CHELAGAT ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant Felix Kiprop Chelagat, was charged with the offence of housebreaking and Stealing contrary to Section 304 as read with Section 279(b) of the Penal Code. The particulars were that on diverse dates between 2<sup>nd</sup> and 9<sup>th</sup> June, 2024 at Budalangi area in Marigat Location, Baringo South Sub-County, jointly with others not before court, he broke and entered the dwelling house of Sally Chesire Kangogo and stole items valued at Kshs.48,000/=.
2. The applicant pleaded guilty while his co-accused denied the charge. He was convicted and sentenced to four (4) years imprisonment.
3. The applicant now seeks revision of the sentence. On 30<sup>th</sup> April, when the matter came up for mention, he indicated that he had one year and ten months remaining. The Court called for a social inquiry report. The probation office initially did not file the report, citing a previous review application and pending compensation discussions. The Court clarified that the earlier ruling permitted renewal of the application at a later stage, and directed that a second report be prepared.
4. On 21<sup>st</sup> July, 2025 the applicant informed the Court that the complainant had forgiven him and sought time for her to attend court. On 21<sup>st</sup> October, 2025, the complainant attended court and confirmed that she had been compensated by the applicant's mother.
5. The prosecution, through Ms. Kosgey, submitted that the Court may now consider the application for revision given that compensation had been effected. A second Social Inquiry Report was filed on 13<sup>th</sup> August, 2025.



## **Social Inquiry Report**

6. The report indicates that the applicant completed KCPE but did not proceed to secondary school. He is married with one child, though efforts to reach his wife were unsuccessful as she had relocated to Emining. The victim confirmed she had been compensated and had forgiven the applicant.
7. The local administration stated that prior to the offence, the applicant was of good conduct and they did not oppose a revision of sentence.
8. The inmate's family and the community expressed willingness to receive him back.

## **Analysis And Determination**

9. The jurisdiction of this Court to revise criminal proceedings is conferred by Sections 362 and 364 of the Criminal Procedure Code. Under Section 362, the High Court may call for the record of any criminal proceedings before a subordinate court to satisfy itself of the correctness, legality, or propriety of any finding, sentence, or order, and the regularity of the proceedings. Section 364 empowers the Court to alter or reverse the sentence or order where an illegality, impropriety or irregularity is established.
10. The principles governing revision are settled. Revision is a supervisory jurisdiction, not an appellate one. The Court does not act as if hearing an appeal or substituting its own view merely because it might have reached a different sentence. It intervenes only where the sentence is illegal, materially irregular, improper, or based on a misdirection. This position was affirmed in: *Republic v James Kiarie Mutungei* [2019] eKLR, where the Court held that revision is limited to correcting illegal or improper sentences; *Republic v Mohammed Abdow Mohammed* [2013] eKLR, where the High Court stated that revision should only be exercised where the trial court's decision is "manifestly incorrect, illegal or improper."
11. In reviewing sentences, the Court must also be guided by the Sentencing Policy Guidelines, 2023, particularly Part V (Objectives of Sentencing) and Section 5.1, which emphasize proportionality, rehabilitation, restorative justice, and the use of non-custodial measures where appropriate. The Guidelines underscore that compensation, reconciliation, and reintegration prospects are relevant considerations, especially for first offenders.
12. In the present case, the social inquiry report shows that the applicant is a first offender, of previously good conduct, and enjoys community and family support for reintegration. Crucially, the complainant has been fully compensated, has forgiven him, and is not opposed to revision of sentence. These are material considerations in line with the principles of restorative justice, which the 2023 Guidelines strongly encourage.
13. Taking into account the period already served, the positive social inquiry report, the victim's position, and the objectives of sentencing—including rehabilitation and reparation, I am satisfied that this is an appropriate case for the Court to exercise its revisionary jurisdiction.

## **Final Orders:-**

- 14 The sentence of four (4) years imprisonment is hereby revised, and the applicant shall serve the remaining period of his sentence under probation supervision on terms to be set by the Probation Department.

**RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 20<sup>TH</sup> OF NOVEMBER 2025.**



.....

**RACHEL NGETICH**

**JUDGE**

In the presence of:

Court Assistant - Elvis.

Ms.Bartilol for State

Applicant

