



REPUBLIC OF KENYA



**Kamau v Republic (Miscellaneous Criminal Application E024 of 2024)  
[2025] KEHC 16904 (KLR) (19 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16904 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MURANG'A  
MISCELLANEOUS CRIMINAL APPLICATION E024 OF 2024**

**TW OUYA, J**

**NOVEMBER 19, 2025**

**BETWEEN**

**LINUS KAROGO KAMAU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. This is an appeal against sentence from Magistrates Court at Kigumo in E022 of 2022. The Applicant was tried and convicted of the offence of defilement contrary to section 8(1) as read with section (2) of the *Sexual Offences Act*. He was sentenced to 10 years imprisonment on 30<sup>th</sup> November 2020.
2. The Applicant applied to this Court through a Chamber Summons Application dated 22<sup>nd</sup> March 2024 through the Officer in Charge Nyeri Medium Prison for a revision of his sentence. The application is anchored on Article 27(1)(2) and 29(a) of *the Constitution*, and Sections 333(2) of the Criminal Procedure Code and seeks for the following Orders:
  - i. (1)...Spent.
  - ii. (2) That the Honourable Court be pleased to revise the sentence mitigated upon the Applicant and consider the applicant for a non-custodial sentence for the remainder of the sentence through application of Section 3 of the Community Service Order Act.
3. The subject Application for revision is supported by the grounds set out on its face and the Applicant's Affidavit of even date wherein he deponed inter alia that he was arrested on the 19<sup>th</sup> June 2018 before his release on bond on 3<sup>rd</sup> December 2019. That upon full trial, his bond was cancelled on 5<sup>th</sup> November 2020. His plea is that the trial court failed to take into account the period that he spent in custody pending trial. The period in question is from the date of his arrest, 17<sup>th</sup> June 2028 to the date of his conviction, 3<sup>rd</sup> December 2020. The period amounts to one year, five months and 16 days.



4. The State Counsel, P. Mwangi concedes the application stating that the trial magistrate had erred by failing to take into account and to factor into the sentence the period that the Applicant spent in custody pending his trial.
5. This court has perused the entire record and noted that the Applicant's application is factual and based on the legal position that in sentencing, courts must take into account the period spent in custody pending and during trial as provided under section 333(2) of the Criminal Procedure Code. The same position was held in Vincent Sila Jona & 87 Others Republic (2021). The high court held that it is important to address a violation of an accused fundamental rights and freedoms by taking into account time spent in remand as required under s section 333(2) of the Criminal Procedure Code.
6. Be that as it may, the application is conceded by the state. The period in question is one year, five months and 16 days. From the record, the applicant was sentenced on 25<sup>th</sup> November 2020.
7. This Application is allowed. I hereby order that the period spent in custody pending trial being one (1) year, five (5) months and sixteen (16) days be factored into the sentence of 10 years imprisonment imposed by the trial Court.

**DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 19<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**HON. T. W. OUYA**

**JUDGE**

For Applicant.....(Linus Kanogo Kamau) Present for Nyeri Medium Prison.

For Respondent.....Ms Manyal

Court Assistant.....Brian

