

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
(CORAM: R. MWONGO, J.)
CRIMINAL REVISION CASE NO. E356 OF 2025

JECINTA MUTHONI NJERU.....APPLICANT

-VERSUS-

REPUBLIC.....RESPONDENT

RULING

Background

1. In Siakago MCCR No. E755 of 2022, the applicant and another were charged with and convicted of the following 3 counts in the charge sheet:
 - a. 4th count: of making a document without authority contrary to section 357 as read with section 347(d)(i) of the Penal Code. Following conviction, the applicant was sentenced to pay a fine of Kshs.500,000/=, in default 3 years imprisonment.
 - b. 7th count: obtaining registration of land by false pretense contrary to section 320 of the Penal Code. Following conviction, the applicant was sentenced to pay a fine of Kshs.30,000/=, in default 6 months imprisonment.
 - c. 8th count: obtaining money by false pretenses contrary to section 313 of the Penal Code. Following conviction, the applicant was sentenced to pay a fine of Kshs.100,000/=, in default 1-year imprisonment.
2. The trial court ordered that the sentences run consecutively in any event.

The Application

3. The applicant filed an application dated 13th June 2025 seeking that the sentences imposed by the trial court be reviewed in light of the High Court's revisionary jurisdiction. She prayed that the court reduces the sentences imposed because she is a first offender and she is only challenging the sentences and not the conviction. She is remorseful and stated that she committed the offences out of ignorance, and she begged for the court's mercy. It was her prayer that the court considers ordering non-custodial sentences for the remainder of the sentences, and that time spent in custody be considered.
4. The respondent did not file a response to the application.

Parties' Submissions

5. The respondent filed written submissions and the applicant chose to rely on her application.
6. In its submissions, the respondent argued that the court lacks jurisdiction to entertain the application. However, if the court should choose to find it had jurisdiction, it should dismiss the application. That the legality of the sentences imposed by statutes cannot be brought into question as was found in **Republic v Mwangi; Initiative for Strategic Litigation in Africa (ISLA) & 3 others (Amicus Curiae) [2024] KESC 34 (KLR)**. It also relied on the case of **Shadrack Kipkoech Kogo v Republic, Eldoret Crim. Appeal No.253 of 2003** and urged the court not to review the sentences since they are fair and just and all factors were duly considered.

Issue for Determination

7. The issue for determination is whether the sentences imposed by the trial court should be revised.

Analysis and Determination

8. The revisionary power of the High Court is drawn from Article 167(6)&(7) of the Constitution which provides:

“(6) The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.

(7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.”

9. Section 362 of the Criminal Procedure Code provided as follows on the High Court's supervisory jurisdiction:

“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.” [Emphasis added]

Conclusions and Determination

10. From these provisions, this court has jurisdiction to entertain an application for review of any order of a subordinate court including an order on sentence. In taking up a review, the critical issues the Court considers are whether the trial court’s order was correct, legal and properly made within regular proceedings.

11. With respect to the 4th count, the applicant was ordered to pay a fine of Kshs.500,000/= and in default 3 years imprisonment. For the 7th count, the court ordered a fine of Kshs.30,000/=, and in default 6 months imprisonment; and for the 8th count, the court ordered a fine of Kshs.100,000/=, and in default 1-year imprisonment. The default sentences were ordered to run consecutively.

12. The Penal Code prescription for each of the counts is as follows: For the 4th count, the Penal Code prescribes a sentence of 7 years imprisonment. For the 7th count, a sentence of 1-year imprisonment is prescribed; and for the 8th count, a sentence of 3 years imprisonment is prescribed. Before sentencing, the trial court considered the mitigating factors and imposed the impugned fines and imprisonment terms for all the offences.

13. I do not see anything in the sentences imposed by the trial court that is unfair or unjust. All the penalties were imposed after all the necessary factors had been considered by the trial Court.

14. In light of the foregoing, there is no basis for revising the sentences imposed, and the application is therefore hereby dismissed.

15. Orders accordingly.

Delivered electronically, dated and signed at Embu High Court this 19th day of November, 2025, pursuant to notices issued on 10th November and 12th November, 2025 as to electronic delivery.

**R. MWONGO
JUDGE**