



**Nyarama v Republic (Miscellaneous Criminal Application E196 of 2025)  
[2025] KEHC 17588 (KLR) (27 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17588 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
MISCELLANEOUS CRIMINAL APPLICATION E196 OF 2025  
DR KAVEDZA, J  
NOVEMBER 27, 2025**

**BETWEEN**

**LILIAN NYACHAMA NYARAMA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant was charged and after a full trial convicted for the offence of stealing contrary to section 268(1) as read with section 275 of the Penal Code. She was sentenced to serve two (2) years imprisonment.
2. She has now filed an application seeking revision of sentence. The arguments raised are that the trial court failed to consider the time he spent in reman custody during the computation of sentence under the provision of section 333(2) of the Criminal Procedure Code, Cap 75 of the Laws of Kenya.
3. I have considered the application, the affidavit in support and the applicable law. I have also considered the trial court record. The issue for consideration is whether the trial court considered the time the applicant spent in remand custody.
4. The proviso to section 333(2) of the Criminal Procedure Code obligates the court to consider 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 vs. Republic* [2018] eKLR and *Bethwel Wilson Kibor vs. 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 considered in meting out the sentence where it is not hindered by other provisions of the law.
6. From the record, the applicant was arrested on 20<sup>th</sup> November 2025 and was never released on bail/bond. The sentencing proceedings indicate that the period spent in remand custody was not considered.
7. Guided by the law, the court is of the view that the application ought to be considered, as failure to do so would amount to denying the applicant a right due to the failure of the court to discharge an obligation bestowed upon it by law.
8. I thus allow the application. In the premises, I make the following orders: the sentence of two (2) years imprisonment shall be run from 21<sup>st</sup> November 2024 the date of her arrest pursuant to section 333(2) of the Criminal Procedure Code.

Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY THIS 27<sup>TH</sup> DAY OF NOVEMBER 2025**

**D. KAVEDZA**

**JUDGE**

