



REPUBLIC OF KENYA



KENYA LAW
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**Asande alias Mogaka v Republic (Criminal Application E046 of 2025)
[2025] KEHC 19090 (KLR) (19 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 19090 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL APPLICATION E046 OF 2025
E OMINDE, J
DECEMBER 19, 2025**

BETWEEN

VICTOR MUCHERE ASANDE ALIAS MOGAKA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein moved this Court by way of undated Notice of Motion. He prays to Court that as provided under Section 333(2) of the Criminal Procedure Code, the Court considers and factors into his sentence the period that he was in remand custody during the trial.
2. He states in the Affidavit in support of the Application that he was charged with the offence of Defilement contrary to Section 8(1) (2) of the *Sexual Offences Act* No. 3 of 2006, Laws of Kenya convicted and sentenced to 8 years imprisonment. That he has no issue with the conviction and the sentence and has only one ground of appeal as above sated.
3. Counsel for the State in his oral response to this Application stated that even though the cited provision of the law is mandatory the trial Court file indicates that the period the Applicant spent in remand custody was already factored into factored into the applicant's sentence by the Trial Court. The Applicant denied that this was the case. The court then directed that it will peruse the Trial Court file and make an informed Ruling.
4. I have perused the record of the proceedings of sentencing. From the same it is apparent that the period that the applicant spent in remand custody was not considered the sentence of 8 years' imprisonment that was meted out to the Applicant. In this regard, I find merit in his application which I now hereby allow with the direction that the period of 2 years, 5 months and 20 days that the applicant spent in remand custody be computed into his sentence of 8 years' imprisonment.
5. Right of Appeal 14 days



READ DATED AND SIGNED AT ELDORET ON 19TH DECEMBER 2025

E. OMINDE

JUDGE

