

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT ELDORET**  
**CRIMINAL REVISION NO. E003 OF 2025**

**STEPHEN KIPTANUI**

**CHERUIYOT.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. By way of Notice of Motion dated 17<sup>th</sup> January 2025, the applicant seeks, in a nutshell, a revision of sentence to a lesser or non-custodial one. The applicant was charged and convicted of the offence of causing Grievous Harm Contrary to section 234 of the Penal Code in Eldoret Chief Magistrates Criminal Case No. E1042 of 2021. The applicant was convicted of his own plea of guilt and entered into a plea agreement with the prosecution. The trial court sentenced him to serve 8 years imprisonment on 21<sup>st</sup> December 2021.
  
2. The application is premised on the grounds that he is remorseful, repentant and rehabilitated.

**Applicants Submissions**

3. The applicant filed his handwritten submissions on the application where he urged that he is a first offender and remorseful and therefore ready for integration into society as evidenced by the prison's recommendation letter. He cited the case of Dalix Hussein vs Republic - Criminal Appeal no. 1 of 2015 (2015) eKLR on the objectives of sentencing. He urged that the five years he has spent in prison has created a space of healing in the community. He further stated that the sentence was harsh and excessive as he was he

breadwinner in the family and as such, his children's education is diminishing. He reiterated that he is remorseful and repentant and prayed the court reduce his sentence or substitute it with a non-custodial one.

### **Respondents' Submissions**

4. Learned counsel for the state, S.G Thuo, submitted that the applicant pleaded guilty on his own volition and facts were read out to him in Kiswahili to which he insisted on his guilt and was recorded as such. He was sentenced to serve 8 years imprisonment for the offence of assault occasioning grievous harm, an offence which attracts a life sentence. It is worthwhile to note that the complainant was the wife whom he viciously attacked with a sharp machete and occasioned her permanent physical and mental scars. Counsel posed the question of whether such a beastly husband and perpetrator of gross Gender Based Violence be heard now to claim that some unspecified right of his has been infringed, threatened or violated and is now God fearing, repentant and remorseful, submitting the negative in response.
  
5. Counsel stated that he relied on Section 348 of the Penal Code that provides that no appeal shall be allowed in the case where an accused person has pleaded guilty to an offence and has been convicted on that plea by a subordinate court, except as to the extent or legality of that sentence. He placed reliance on the case of Fredrick Kiplangat Mutai vs R Cr App E026/22 and further, urged that the procedure for plea under section 207(1) and (2) of the CPC were fully complied with as the charges were read out to him in Kiswahili, a language he understood, the facts read out and he admitted to the same. Counsel urged the court to dismiss the application.

**Analysis & Determination**

6. The only issue that arises is whether the court should revise the Applicants' Sentence
  
7. Article 165(6) and (7) provide as follows on Supervisory Jurisdiction of the High Court;

**“ (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 purpose of clause (6), the High Court may call for the record of any proceedings before any court or person, body of 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.”**

8. The above said, the only provision of the law that is available for the court to consider applications such as the one now before the court as has been rightly pointed out by the Prosecution is Section 348 of the Criminal Procedure Code and it is to the following effect;

**No appeal shall be allowed in the case of an accused person who has pleaded guilty and has been convicted on that plea by a subordinate court, except as to the extent or legality of the sentence.**

9. In the instant case, the Applicant was convicted based on his own plea of guilt. The court notes that he has not at all challenged the process of the plea

taking process that led to his conviction and/or the plea agreement process that led to the sentence of 8 years imposed upon him. He simply prays that the sentenced be reduced for reasons that it was excessive, that he has since served 5 out of the eight years and is that he is now reformed. This in my well-considered opinion does not amount to challenge on the legality of the sentence as envisaged under 348 of the CPC to warrant the review sought.

**10.**On the length of the sentence, the court in taking cognisance of the fact that a person charged with the offence of grievous harm is liable to imprisonment for life and the Applicant herein, upon his own plea of guilt and based on a plea agreement with the prosecution was sentenced to a term of 8 years imprisonment, and further, the court in taking into consideration the fact that the victim is the accused wife which then qualifies this case to be considered as a gender based/ domestic violence matter, an occurrence which unfortunately is on a rapid rise and which society ought to frown upon and discourage with the seriousness and urgency that it deserves, I do not find the term of 8 years imprisonment imposed upon the Applicant to be excessive in the circumstances. For the above reasons, I find that the Application lacks merit and the same is accordingly dismissed in its entirety. It is so ordered.

**11.**Right of Appeal 14 days

**Read Dated and Signed at ELDORET on 19<sup>th</sup> December 2025**

**E. OMINDE**  
**JUDGE**

