



**Maina v Republic (Criminal Revision E286 of 2024)  
[2026] KEHC 87 (KLR) (13 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 87 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E286 OF 2024  
RN NYAKUNDI, J  
JANUARY 13, 2026**

**BETWEEN**

**JOSEPHAT MAINA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

Representation:

M/S Sidi for State

1. The Applicant was charged with stealing contrary to Section 268 as read with Section 275 of the Penal Code. The brief facts of the particulars are that on diverse dates between 25<sup>th</sup> day of May 2025 and 15<sup>th</sup> day of June 2025 at Yamumbi village, Langas Sub-Location, Pioneer Location in Kapseret Sub-County within Uasin Gishu County, jointly with others not before Court stole [1] Centre Cone [2] Anvil Set-96 Nos [3] Body Liner Large 14 nos set [4] Centre shaft [5] Bearing Upper cover [6] Upper frame Bearing [B020090] [7] Vibrating Motor for Feeder 1.1x3 [8] Side Plates [9] Bearing Housing Assembly for Vib. Screen [10] Toggle plate [11] Gear box-big – B18222FSB/F201 [12] Body Bearing [13] Lever Bearing [14] Vibrating Motor feeder 0.8x2.2 all valued at Kshs 2,250,716/= the property of Jijenge Quarry and Construction Limited.
2. The Applicant was convicted on his own plea of guilty and was sentence to serve two (2) years imprisonment on 4<sup>th</sup> July 2025.

**Decision**

3. The law on review of sentence is guided by the principles under Section 362, & 364 of the Criminal Procedure Code together with the sentencing policy guidelines 2023. The law on review of sentences is guided by the several core principles which ensure fairness, consistency and proportionality



in the administration of justice. The core guiding principles include but not limited to the following: Proportionality: The sentence must match the gravity of the offence, considering the harm caused, the offender's responsibility, and the facts of the case. Consistency and Uniformity: Similar offences committed in similar circumstances should result in similar sentencing outcomes, promoting fairness and equality before the law. Judicial Discretion: While Parliament sets the potential range of sentences for a crime, judges have the discretion to determine an appropriate sentence within those parameters, taking into account all relevant factors of the specific case. This discretion must be exercised judicially and not arbitrarily. Aggravating and Mitigating Factors: Courts are required to consider evidence or information that either increases the seriousness of the offence (aggravating) or lessens it (mitigating). Accounting for Custody Period: Where an offender has been held in custody before sentencing, the court must take that period into account when imposing the final sentence. Objectives of Sentencing: The ultimate goals of sentencing guide the court's decision, which include prevention, restraint, rehabilitation, deterrence, retribution, and restoration. Fairness and Right Protection: The process must uphold the fundamental rights and dignity of all parties involved, including the offender and the victim. Victim and Community Interest: The interests and impact on the victim and the broader community are relevant factors in the sentencing process.

4. From this background, what would the review court on sentence be looking for in the impugned judgement, in other words, the grounds for review of sentence as I see them. Illegality (the court acted beyond its legal authority) Irrationality ( the decision was one that no reasonable authority would make) Procedural impropriety (failure to follow proper legal procedures) Where the initial court is imposed an arbitrary or unreasonable sentence.
5. Having reviewed the judgement of the trial court, I find no patent error of fact or law or misapprehension of the evidence or application of the wrong principles rendering the sentence punitive or manifestly excessive. For that matter the application fails for want of merit and the same is dismissed.

**GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 13<sup>TH</sup> DAY OF JANUARY 2026**

.....  
**R. NYAKUNDI**  
**JUDGE**

