



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

MISCELLANEOUS APPLICATION NO. E217 OF

2024

ROBERT KAMBOTI MBURU.....

APPLICANT

-VERSUS-

REPUBLIC

RESPONDENT

RULING

1. The Applicant prays for invocation of the Provisions of **Section 333(2) of the Criminal Procedure Code** in his sentencing so that the period he was in remand custody awaiting trial is

taken into account . He seemingly wants the custodial sentence imposed against him to commence from the date of his arrest. The Application is brought *vide* a Chamber Summons dated 11th September 2024 filed herein.

2. The Prosecution Counsel (Daniel Wakasyaka) opposes the Application, telling the court that the lower court had given the Applicant credit for the period he was in remand custody awaiting trial.

3. The Applicant had been charged in the Chief Magistrate's Court at Nakuru **(Criminal Case No. E409 of 2014)** for the offence of a **Robbery with violence contrary to section 296(2) of the Penal Code**. It was alleged that on night of 6th and 7th February 2014 at Sigotik area, Kihingo Division, of Njoro Sub-County, within Nakuru County he jointly with others rob one Joseph Mwangi Mucami of a vehicle registration No. KBK 710 Y Toyota NZE 121, cell phone Make

- Nokia and a driving license and, immediately thereafter used actual violence against the victim.
4. The Applicant and his co-accused denied the offence. After full trial they were convicted and the Applicant was sentenced to 25 years imprisonment. On appeal to this court *vide* **Criminal Appeals Nos. 97 and 100 of 2018 (Consolidated)**, my brother (H.K. Chemitei, Judge) dismissed the Appeal.
 5. As to whether or not **Section 333 (2) of the Criminal Procedure Code** was complied with, the record of the lower court does in fact indicate so as noted by the Prosecution Counsel. It is not shown that the Prison Authorities have not complied with the court's order.
 6. The Application therefore lacks in merit and is dismissed.

J. M. NANG'EA, JUDGE.

Ruling delivered this 24th day of February, 2026 in the presence of:

Mr Wakasyaka for the DPP.

The Applicant.

The Court Assistant (Jeniffer).

J. M. NANG'EA, JUDGE.

Original