



**Maina v Prosecution (Criminal Revision E227 of 2024)
[2026] KEHC 2496 (KLR) (3 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 2496 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL REVISION E227 OF 2024
TW OUYA, J
MARCH 3, 2026**

BETWEEN

JOHN CHEGE MAINA APPLICANT

AND

PROSECUTION RESPONDENT

RULING

1. The applicant filed the instant application filed in 2024 seeks to review the applicant's sentence by factoring in the period spent in custody pending and during trial. The applicant was charged and convicted for the offence of defilement contrary to Section 8 (1) of the *Sexual Offences Act*.
2. The application is supported by the affidavit of John Chege Maina and grounds on the face of the record that the applicant has served a substantial part of the sentence having been convicted to 15 years imprisonment.
3. The Respondent led by P. Mwangi for the Prosecution did not oppose the Application but urged the court to grant the order as prayed noting that the period in issue is 1 year and 3 weeks. Counsel also pointed out that the Applicant was arrested on 3rd August 2022 and sentenced on 24th August 2023.
4. The Applicant did not file any submissions while the Respondent made oral submissions to the effect that the Applicant ought to benefit from the provisions of Section 333 (2) of the Criminal Procedure Code as the same were not adhered to by the trial magistrate.
5. Having taken into account the application and submissions by Counsel, I refer to the case of Paul Evanai Nakwanga v Republic [2019] eKLR where the court emphasized that the period spent in custody ought to be taken into account when computing the sentence.
6. The High Court's power of revision is set out in Article 165 (6) and (7) of *the Constitution* which provides:-



- (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 over a superior court.
- (7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or 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.
7. A perusal of the record herein confirms that the Applicant was arrested on 3rd August 2022 and sentenced on 24th August 2023 and that he was sentenced to 15 years imprisonment. Section 333(2) of the Criminal Procedure code is clear about courts being careful to factor in the days spent in custody during and pending trial.
8. In the circumstances, this Application is granted as prayed to the effect that the period of 1 year 3 months spent by the Applicant in custody during Trial is factored into the sentence.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 3RD DAY OF MARCH, 2026.

HON. T. W. OUYA

JUDGE

For Applicant...John Chege Maina(Present at Naivasha Maximum Prison)

For Respondent.....Mr. Mwakio

Court assistant.....Brian

