



**Mwangi v Republic (Criminal Revision E019 of 2025)
[2026] KEHC 3571 (KLR) (12 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3571 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL REVISION E019 OF 2025
TW OUYA, J
MARCH 12, 2026**

BETWEEN

ISAAC MUCHANGO MWANGI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. By a Notice of Motion filed on the 13th March, 2025, the applicant, Isaac Muchango Mwangi, sought a review of his sentence imposed by the lower court in Kangema Criminal case No. E646 of 2024.
2. A perusal of the trial court record reveals that the applicant was convicted on his own plea of guilty of the offence of stealing a motorcycle, contrary to section 278A of the Penal Code, and was sentenced to serve a term of three (3) years imprisonment on 22nd February 2025.
3. The applicant now seeks a revision of that sentence and prays that the same be substituted with a non-custodial sentence. The application is premised on the grounds stated on the face of the application and on the depositions made in the supporting affidavit sworn by the applicant in which he deposes that the respondent is bound by the provisions of *the constitution* and the written law; that the applicant has a constitutional right under Article 47 and 48 of *the Constitution* 2010, to fair administrative action and access to justice; and that the court has jurisdiction in the interest of justice under section 362 of the criminal Procedure code to review the sentence to reflect the requirement of the law.
4. The application was opposed by Mr. Mwangi, learned prosecution counsel. In his brief oral submissions before this court, Mr. Mwangi submitted that the offence which the accused was charged with provides for a sentence of seven (7) years imprisonment. That the sentence of three (3) years imprisonment passed was fair and just, and the same should not be disturbed by this court.
5. I have considered the application, the brief oral submissions made by the learned prosecution counsel in opposition of the application, together with the records of the trial court, and I find that this



application invokes the revisional jurisdiction of this court as provided for under Section 362 of the Criminal Procedure Code.

6. Section 362 of the Criminal Procedure Code stipulates thus: “The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.”
7. It is a well settled principle of law, that sentencing is at the discretion of the trial court, and an appellate court can only interfere with this discretion when it is satisfied that the trial court while sentencing the accused, acted upon wrong principles, overlooked some material factors or that the sentence was manifestly excessive in view of the circumstances of the case.
8. This principle was reiterated by the Court of Appeal in the case of *Macharia v Republic* (2003) KLR 115-118 as follows:

“The principle upon which this court will act in exercising its jurisdiction to review or alter a sentence imposed by the trial court have been firmly settled as far back as 1954, in the case of *Ogalo s/o Owuor* (1954) EACA at page 270, wherein the predecessor of this court stated: “the court does not alter a sentence on mere ground that if the member of the court had been trying the appellant, they might have passed a somewhat different sentence and it will not ordinarily interfere with the discretion exercised by a trial judge unless as was said in *James vs.R*, (1950) 18 EACA 147 “it is evident that the judge has acted upon some material factors” to this we would also add third criterion namely, that the sentence is manifestly excessive in view of the circumstances of the case: *R v Shershewsky* (1912) CCA 28 TLR 364.”

9. Having stated as above, the offence of stealing of a motor cycle contrary to section 278A of the Penal Code, attracts a penalty of seven (7) years imprisonment. The said provision of law states as follows:

If the thing stolen is a motor vehicle within the meaning of the *Traffic Act* (Cap. 403), the offender is liable to imprisonment for seven years.

10. In this case, the learned trial magistrate considered all the aggravating and mitigating circumstances of the case, including the fact that the accused was a first-time offender and proceeded to sentence him to a term of three (3) years imprisonment. I therefore do not find any need to interfere with the sentence imposed by the court, as the same is just, lenient and fair.
11. Furthermore, the applicant has not demonstrated that the learned trial magistrate while sentencing him, applied the wrong principles, considered some irrelevant factors or that the sentence imposed was manifestly excessive given the circumstances of the case.
12. Based on the above, I find that the application lacks merit and is hereby dismissed.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 12TH DAY OF MARCH, 2026.

HON. T. W. OUYA

JUDGE

For Applicant..Isaac Muchango Mwangi (Present at Mwea Prison)

For Respondent.....Mwakio for state

Court Assistant.....brian

