

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KIBERA**  
**CRIMINAL REVISION NO. E020 OF 2024**

JOHN MUISYO MBINGU.....APPLICANT

VERSUS

REPUBLIC.....  
RESPONDENT

**RULING**

1. The applicant was charged, tried and convicted of stealing from a locked motor vehicle contrary to section 279(g) of the Penal Code, and sentenced to seven (7) years' imprisonment. His appeal in Criminal Appeal No. E075 of 2025 was dismissed, and both conviction and sentence were upheld.
2. By an application dated 16<sup>th</sup> February 2026, he seeks review of sentence. The ground raised are that he was not afforded an opportunity to mitigate before sentence, and that this Court erred in upholding the sentence in those circumstances. He further relies on his family responsibilities, remorse, and status as a sole breadwinner, and prays for a reduction of sentence.
3. At the hearing on 14<sup>th</sup> April 2026, learned counsel, Mr Mzari, was afforded an opportunity to mitigate. He reiterated the grounds in the supporting affidavit and urged the Court to exercise leniency.
4. I have considered the application, the submissions, and the record. The issue for determination is whether the sentence imposed was improper or excessive, particularly in light of the denial of an opportunity to mitigate.
5. The record shows that the applicant was convicted in absentia, having absconded during trial. Upon re-arrest, he was sentenced

without mitigation. Mitigation is an important component of fair sentencing.

6. The offence under section 279(g) attracts a maximum sentence of fourteen (14) years' imprisonment. The sentence of seven (7) years imposed by the trial court falls within the statutory limits and cannot, on its face, be said to be unlawful or manifestly excessive.
7. Upon consideration of the mitigation now advanced, including that the applicant is a first offender with family responsibilities, there is no sufficient basis to interfere with the sentence. The aggravating circumstances, including the absence of any effort at restitution or compensation to the complainant, outweigh the mitigating factors.
8. In the premises, the application is found to be lacking in merit. The sentence imposed was lawful, proportionate, and properly upheld on appeal. The application for sentence review is accordingly dismissed.

**Ruling dated and delivered virtually this 22<sup>nd</sup> day of April  
2026**

**D. KAVEDZA  
JUDGE**

**In the presence of:**

Mr. Hamisi Nzembi for the Applicant

Mr. Mutuma for the Respondent

Karimi Court Assistant.