



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

MISCELLANEOUS APPLICATION NO. E007 OF 2023

BENSON MAGERA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. This is an undated Notice of Motion application filed on 1st January 2023 invoking **Section 333 (1)** of the Criminal Procedure Code urging that the trial magistrate was silent on sentencing as to when the same should run from.
2. The Applicant is currently serving a ten (10) year Imprisonment having been convicted and sentenced on 13th May 2020, for the offence of **Robbery with violence** contrary to **Section 296 (2)** of the Penal Code;
3. It is noteworthy that the Applicant unsuccessfully challenged his conviction and sentence vide High Court at Nakuru, Criminal Appeal Number 227 of 2012 and Court of Appeal at Nakuru Criminal Appeal number 31 of 2013 determined on 21st June 2013 and 6th November 2020 respectively;

4. Before embarking on the hearing of the application the Court availed the state an opportunity to respond which opportunity was unutilized;
5. This Court accordingly called for and reviewed the entire Molo PM'S Court Criminal Case file number 333 of 2019 and accordingly finds merit in the Application.
6. Pursuant to **Section 333(1)** of the Criminal Procedure Code the ten (10) years imprisonment sentence imposed by Hon A. Mukenga (SRM) on the 13th May 2020 shall run from the 8th February 2019.

It is so ordered.

**Signed, Dated and Delivered in virtually at Nakuru
on this 22nd April 2026**

**Mohochi S.M
JUDGE**