



**Republic v Muriuki (Criminal Revision E260 of 2024)
[2026] KEHC 4789 (KLR) (Crim) (13 March 2026) (Revision)**

Neutral citation: [2026] KEHC 4789 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CRIMINAL

CRIMINAL REVISION E260 OF 2024

MW MUIGAI, J

MARCH 13, 2026

BETWEEN

REPUBLIC PROSECUTION

AND

JULIUS MACHARIA MURIUKI ACCUSED

REVISION

1. On 28/4/2025, the Applicant sought anticipatory bail pending appeal and the ODPP sought to be served with the instant Application that was now on revision.
2. On 22/9/2025, the Court sought the Lower Court File 54 of 2010 specifically the Trial Court’s judgment of 19/3/2015 & the Judgment of the Court of Appeal of 6/11/2020. The ODPP & Applicant were at liberty to file and exchange written submissions on the instant Application.
3. The matter was mentioned on 21/10/2025 & 6/11/2025 for Written submissions but they were not filed.
4. On 24/11/2025, the Appellant stated he filed submissions on CTS and would avail a physical copy through Deputy Registrar Criminal Division.
5. ODPP Officer promised to file written submissions and the Court was to peruse the Trial Court file and count the Pre-Sentence period.



REVISION

6. Section 362 of the Criminal Procedure Code refers to the High Court's statutory power of revision and provides;

“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. Section 364 of CPC refers to the Powers of High Court on revision, subsection 5 provides for measures to be taken where an appeal lies in an order.
 - (5) When an appeal lies from a finding, sentence or order, and no appeal is brought, no proceeding by way of revision shall be entertained at the insistence of the party who could have appealed.
8. The applicant refers the court to the case of where the Section 364 (5) was in issue. The court referred to Wesley Kiptui Ruto Another –Vs- Republic (2017) EKLr and the finding that the revision power can be exercised where an appeal lies but has not been preferred.

Analysis & Determination

9. The Applicant applied for revision with regard to sentence specifically on computation of sentence under Section 333 (2) Criminal Procedure Code.
10. In the case of Ahamad Abolfadhi Mohammed & Another vs Republic, 2018 eKLR the Court of Appeal held that:
11. “The failure of the Court to take into account the meaningful way, the period that the appellants had spent in custody as required by Section 333(2).” Section 333(2) of the Criminal Procedure Code states that: every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided for in the Code. Provided that where the person sentenced under subsection (1) has, before such sentence, been held in custody, the sentence shall take account of the period spent in custody.
12. With regard to the instant matter, the Applicant sought revision of sentence in terms of Section 333(2) CPC.
13. The Trial Court judgment of 19/3/2015 by Hon N.R.O. Ombija J where 1st Accused Julius Macharia Kariuki (Applicant herein) was sentenced to suffer death for offence of murder of Ben Mwangi (deceased). The 2nd Accused Boniface Mwaura Njogu found to be underage 17 years at the time was detained at President's pleasure under Section 25 (2) of the Penal Code. (at the time it was not declared unconstitutional to detain one at the pleasure of the President)
14. Therefore, in the instant matter, the Trial was by the High Court, a Court of equal, similar and competent jurisdiction as this Court and hence this Court lacks requisite jurisdiction to review the sentence.
15. The Appellants pursued appeal to the Court of Appeal Criminal Appeal 12 of 2017, on sentence 2nd Appellant's appeal was withdrawn as he had been released by the High Court in High Court Petition No 250 of 2017; Ouko Murgor Kantai JJA considered F.K. Muruatetu & Anor vs Republic [2017] eKLR and considered though the attack was vicious, they considered the Appellant's age 23 years



at the time the offence was committed a relevant factor in considering whether death was the most appropriate punishment.

16. The Court of Appeal set aside the death sentence and substituted it with a sentence of imprisonment of 25 years from the date of conviction.
17. At the time of writing the Ruling, this Court notes that the Court file contains proceedings, the Trial Court file 54 of 2010; Information, Proceedings, Judgment & Committal Warrant and the Committal bundle. The Court also has the Appeal to Court of Appeal & Judgment.
18. Conspicuously missing is the instant application for review under Section 333(2) CPC & written submissions by both Applicant and ODPP.

Disposition

19. This Court has jurisdiction to review sentence from Magistrates' matters under Section 362 CPC
20. The section 333(2) CPC on computation of sentence by including the Pre-sentence period the Applicant spent in custody would be if the matter from High Court on review but not review of Court of Appeal order as outlined above.
21. The Court of Appeal set aside the death sentence and substituted it with a sentence of imprisonment of 25 years from the date of conviction. The appeal on sentence succeeds to that extent.
22. The application for review of sentence to comply with Section 333(2) CPC ought to be made before Court of Appeal with requisite jurisdiction to review its own orders.

The application is hereby dismissed for lack of jurisdiction.

**RULING DELIVERED SIGNED & DATED IN OPEN COURT CRIMINAL DIVISION NAIROBI
ON 12/3/2026**

M.W.MUIGAI

JUDGE

