



REPUBLIC OF KENYA



KENYA LAW
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**Peter v Republic (Criminal Revision E141 of 2024)
[2025] KEHC 1167 (KLR) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1167 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CRIMINAL REVISION E141 OF 2024
EN MAINA, J
FEBRUARY 27, 2025**

BETWEEN

ALEX SILA PETER APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. By the Notice of Motion(undated) brought under Certificate of Urgency(undated) the Applicant seeks revision of his sentence pursuant to Section 333(2) of the *Criminal Procedure Code*. Simply put his prayer is that the sentence be varied so as to take into account the period he spent in remand custody.
2. The Applicant was charged with, convicted and sentenced to imprisonment for 15 years for the offence of Defilement contrary to Section 8(1) as read with Section 8(4) of the *Sexual Offences Act*.
3. The sentence prescribed under Section 8(4) of the *Sexual Offences Act* is a minimum sentence which this court cannot interfere with in view of the decision of the Supreme Court in the case of *Republic v Mwangi, Initiative for Strategic Litigation in Africa & 3 others (amicus curiae)* Petition No E018 of 2023[2024] KESC 34[KLR] (12TH July 2024) (Judgment).
4. Be that as it may, Section 333(2) of the *Criminal Procedure Code* obligates the court sentencing the accused person to take into account the period spent in remand custody.
5. I have perused the record of the lower court and it is evident that the Learned Magistrate overlooked the provisions of Section 333(2) of the *Criminal Procedure Code*. Accordingly, whereas this court cannot alter the sentence imposed by the trial court it hereby directs that the correctional facility shall compute the sentence of imprisonment for 15 years to commence from the date of arrest which is 2nd December, 2021 so as to take into account the period spent in remand custody.

Orders accordingly.



File closed.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY ON THIS 27TH DAY OF FEBRUARY, 2025.

E. N. MAINA

JUDGE

27/02/2025

In the presence of:

Ms Nyauncho for the state

Applicant in person (online)

C/A: Geoffrey

