



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kamau v Republic (Criminal Revision E152 of 2024)  
[2025] KEHC 5621 (KLR) (30 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5621 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MURANG'A  
CRIMINAL REVISION E152 OF 2024  
CW GITHUA, J  
APRIL 30, 2025**

**BETWEEN**

**GEORGE MWANGI KAMAU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant herein, George Mwangi Kamau, approached this court through an undated Notice of Motion filed on 9<sup>th</sup> April 2024 seeking revision of his sentence imposed by the trial court in Kangema Senior Principal Magistrate's court sexual offence no. E036 of 2021.
2. The record of the trial court reveals that the applicant was tried and convicted of the offence of attempted defilement contrary to Section 9 (1) as read with Section 9 (2) of the *Sexual Offences Act*. The victim of his crime was a minor aged 2 ½ years. He was sentenced to serve 10 years imprisonment.
3. At the hearing, the applicant orally submitted that he had already served 3 years in prison and prayed that the remainder of his prison term be converted into a non-custodial sentence to enable him rebuild his life and take care of his family. In addition, he informed the court that he had undertaken training while in prison and had acquired carpentry and welding skills which he would utilize if his application was allowed. He urged the court to note that he was a first offender.
4. The application was contested by the respondent through learned prosecution counsel, Ms. Muriu who supported the sentence meted out by the trial court. She submitted that the sentence was lawful as it was in accordance with the law and should not be disturbed.
5. I have duly considered the application and the brief oral submissions made by both parties. I have also read the record of the trial court. Under Section 362 of the *Criminal Procedure Code* (CPC), the High Court is vested with jurisdiction to call for and examine the record of the lower court in criminal



proceedings to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order made by the trial court or the regularity of any proceedings before the trial court.

6. It is trite that sentencing is at the discretion of the trial court and this court when exercising its supervisory jurisdiction can only interfere with the sentence if it was satisfied that it was illegal or that when passing the impugned sentence, the trial court applied wrong legal principles or considered extraneous factors or failed to consider relevant ones.

See : Bernard Kimani Gacheru V Republic [2002] eKLR

7. In this case, as stated earlier, the applicant was convicted of the offence of attempted defilement of a minor aged 2 ½ years. The penalty for the offence is prescribed in Section 9 (2) of the [Sexual Offences Act](#) which is a mandatory minimum sentence of ten years imprisonment. The sentence sought to be reviewed in this case was therefore lawful as it was in accordance with the law.
8. Further, my perusal of the trial court record does not indicate that when passing sentence, the learned trial magistrate made any error of law or misdirected himself in any way. It is therefore my finding that the applicant has failed to establish any basis to justify intervention of this court by way of revision on terms sought.
9. It is also important to note that the revisional jurisdiction of this court is limited by Section 364 (5) of the CPC which provides as follows;

“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”

10. The applicant had a right of appeal against the sentence imposed by the trial court. He chose not to challenge it on appeal. He was therefore precluded from approaching this court by way of revision unless it was on grounds that the sentence was illegal or that it was the product of impropriety or a mistake made by the trial court which is not the case in this application.
11. In view of the foregoing, I am satisfied that this application lacks merit and it is hereby dismissed.

**DATED, SIGNED AND DELIVERED AT MURANGA THIS 30<sup>TH</sup> DAY OF APRIL 2025.**

**HON. C.W. GITHUA**

**JUDGE**

In the Presence of:

The Applicant

Ms. Muriu for the Respondent

Ms. Susan Waiganjo, Court Assistant

