



**Dzumbembe v Republic (Miscellaneous Criminal Application  
E095 of 2024) [2025] KEHC 5003 (KLR) (28 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5003 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
MISCELLANEOUS CRIMINAL APPLICATION E095 OF 2024**

**DR KAVEDZA, J**

**APRIL 28, 2025**

**BETWEEN**

**ALI HATIBU DZUMBEMBE ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant was charged and after a full trial convicted for the offence of obtaining money by false pretenses contrary to section 313 of the [Penal Code](#). He was sentenced to serve three (3) years imprisonment.
2. Aggrieved, the applicant filed the present application dated 30 December 2024 seeking a review of sentence. He contends that, since his incarceration, his health has deteriorated due to hypertension; he is the sole breadwinner for four children; and he is remorseful. He urges the Court to allow the application.
3. The Court called for a probation report, which was favourable. It noted that the applicant has served six months and has a balance of 18 months, and that he proposes to repay the complainant the sum obtained.
4. Upon consideration of the favourable probation report, the Court finds the applicant eligible for a non-custodial sentence.
5. The three-year custodial sentence is hereby set aside and substituted with a two-year probation order under the supervision of the Kibera Probation Officer. The applicant shall reimburse the complainant, Phelgonah Atiego Akumu, Kshs. 400,000 within three months from the date hereof, and thereafter pay Kshs. 90,000 every three months until full settlement. Should the applicant default on payment or commit a related offence during probation, he shall be re-arrested and serve the original sentence imposed by the trial court.



Orders accordingly.

**RULING DATED AND DELIVERED VIRTUALLY THIS 28<sup>TH</sup> DAY OF APRIL 2025**

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**D. KAVEDZA**

**JUDGE**

