



**Veronica v Republic (Criminal Revision E011 of 2023)
[2025] KEHC 7129 (KLR) (29 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7129 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA
CRIMINAL REVISION E011 OF 2023
EM MURIITHI, J
MAY 29, 2025**

BETWEEN

SUSAN WANJIKU VERONICA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant filed a notice of motion on 26th January, 2024 seeking resentencing of his 5 years' imprisonment sentence. The applicant was charged with the offence of Grievous harm contrary to Section 234 of the *Penal Code*, cap 63 Laws of Kenya, with the Particulars of the offence are that on 22nd August, 2020 at Nyangati village within Kirinyaga County, unlawfully did grievous harm to Mrs. Facilinda Wanjiru Gicovi.
2. She was arrested on 29th October, 2020.
3. She pleaded not guilty and was taken through full trial. He was found guilty and convicted and sentenced on 11th November, 2022 to 5 years' imprisonment.
4. She did not appeal the conviction and only seeks a review of the sentence in regard to section 362 and 364 of the *Criminal Procedure Act*.
5. Section 362 of the *Criminal Procedure Code* provides:

362. Power of High Court to call for records.

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.

6. Section 364 of the *Criminal Procedure Code* provides:

- (1) In the case of a proceeding in a subordinate court the record of which has been called for or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may—
 - (a) in the case of a conviction, exercise any of the powers conferred on it as a court of appeal by sections 354, 357 and 358, and may enhance the sentence;
 - (b) in the case of any other order other than an order of acquittal, alter or reverse the order.

Probation Officer's Presentence Report

7. The report dated 10th November, 2022 is not favourable. It indicated that the offender committed the offence knowingly and is not remorseful.
8. The victim impact statement is that the complainant was traumatized by the incident. She fears that the offender may hurt her again. She is living in fear and is depressed by the incident.
9. The applicant seeks the court to consider her mitigation as she is remorseful and she is a first offender. Further, she has children under her care.
10. The maximum sentence of grievous harm contrary to Section 234 of the *Penal Code* is life imprisonment. The magistrate was very lenient to the applicant in passing a sentence of imprisonment for five years with possibility of remission under section 46 of the *Prisons Act* on an offence for which the offender was liable to life sentence.
11. The way to go herein is as taken in *Joyce Karimi Ita v Director of Public Prosecutions* [2017] KEHC 6110 (KLR) where the Court (Muchemi J.) said:

“I have perused the proceedings and the law and I find no irregularity, illegality or impropriety on part of the magistrate that requires to be corrected by way of review. I find the application lacking merit and is hereby dismissed.”
12. The trial court did not find the offender suitable for a non-custodial sentence due to the risk of re-offending.
13. From the perusal of proceedings and the law, there is no irregularity or illegality that would justify review of sentence. See *Wanjema v. R* (1973) EA 443 on grounds of appellate interference with sentence by a trial court.
14. There was no question of pre-trial detention for the applicant who was granted bail on the first day of plea and released shortly thereafter.



15. The resentencing application is misconceived in view of section 364(5) of the *Criminal Procedure Code*, which provides:

“(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.”

16. The resentencing application is declined.

Orders

17. Accordingly, for the reasons set out above, the Court finds the application for resentencing herein to be without merit and it is dismissed.

18. File Closed.

Order Accordingly.

DATED AND DELIVERED THIS 29TH DAY OF MAY 2025.

EDWARD M. MURIITHI

JUDGE

Appearances:

Mr. Mamba for DPP.

Applicant in person.

