



**Anamwetsa v Republic (Miscellaneous Criminal Application
E075 of 2025) [2025] KEHC 7114 (KLR) (27 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7114 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E075 OF 2025**

DR KAVEDZA, J

MAY 27, 2025

BETWEEN

IBRAHIM MAINA ANAMWETSA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and convicted for the offence of defilement contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act*, No 3 of 2006. He was sentenced to serve 20 years imprisonment.
2. He filed the present application and an affidavit in support of his motion seeking sentence review. The arguments raised are that the trial court failed to consider the time he spent in remand custody during the computation of his sentence.
3. I have considered the application, the affidavit in support and the applicable law. I have also considered the trial court record. The issue for consideration is whether the trial court considered the time the applicant spent in remand custody.
4. The proviso to section 333 (2) of the *Criminal Procedure Code* obligates the court to take into account the time already spent in custody. The duty to take in account the period an accused person had remained in custody in sentencing under the proviso to section 333(2) of the *Criminal Procedure Code* which is couched in mandatory terms was acknowledged by the Court of Appeal in *Ahamad Abolfathi Mobammed & another v Republic* [2018] eKLR and *Bethwel Wilson Kibor v Republic* [2009] eKLR and more recently in the High Court case of *Vincent Sila Jona & 87 others v Kenya Prison Service & 2 others* [2021] eKLR.



5. It is therefore clear that it is mandatory that the period which an accused has been held in custody prior to being sentenced be taken into account in meting out the sentence where it is not hindered by other provisions of the law.
6. From the record, the applicant was arrested on 4th October 2020 and was released on a cash bail on 3rd November 2020. He was therefore not in remand custody during his trial as alleged.
7. In the premises, the application is found to be lacking in merit and is dismissed in its entirety.
Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 27TH DAY OF MAY 2025

D. KAVEDZA

JUDGE

