



**Republic v Cherotich (Criminal Revision E206 of 2024)
[2025] KEHC 7441 (KLR) (27 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7441 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL REVISION E206 OF 2024**

JK SERGON, J

MAY 27, 2025

ORIGINALLY CRIMINAL CASE NO. E014 OF 2024 AT KERICHO

BETWEEN

REPUBLIC PROSECUTION

AND

MERCY CHEROTICH APPLICANT

RULING

1. Pursuant to the provisions of Sections 362 and Section 364 of the *Criminal Procedure Code*, the file relating Kericho C.M.C.CR. No.E014 of 2024 *Republic -vs- Mercy Cherotich* was placed before this Court for perusal.
2. This court has perused the proceedings and it is apparent that Mercy Cherotich pleaded guilty to the offence of Neglect of a Child Contrary to Section 152 (1)(b) of the *Children Act* No.29 of 2022 and was convicted and thereafter sentenced to serve three (3) years imprisonment.
3. The maximum sentence prescribed by law is imprisonment for a term not exceeding 10 years or a fine of not exceeding Kshs.500,000/= or both.
4. Under Section 362 of the *Criminal Procedure Code*, the High Court is given the discretion to call for and examine the record of any Criminal Proceedings before any Subordinate Court to satisfy 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.
5. It is apparent that the Trial Court did not give the applicant the option of a fine yet the law gave the option of a fine. The record does not indicate that the Trial Court considered the fact that the Applicant was a first offender hence the Court should have pronounced a more lenient sentence than 3 years imprisonment.



6. The fact that the Applicant pleaded guilty should have influenced the Trial Court to acknowledge that the Applicant saved valuable time of the Court, therefore a lenient sentence should have pronounced instead.
7. In view of the fact that the Trial Court did not take into account the mitigating factors, this Court is entitled to interfere with the sentence in exercise of its power of revision.
8. In the circumstances of this case, the appropriate sentence should have been a fine of 100,000/= in default to serve 12 months imprisonment.
9. In the end, the sentence of three (3) years imprisonment is set aside and is substituted with a sentence of a fine of Kshs.100,000/= in default to serve 12 months imprisonment.
10. The Applicant has so far served 13 months imprisonment which is more than the default sentence now pronounced.
11. Having served the period in excess of twelve months in prison, this Court hereby orders that the Applicant namely: Mercy Cherotich to be set free forthwith unless lawfully held.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 27TH DAY OF MAY 2025

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J.K. SERGON

JUDGE

