



REPUBLIC OF KENYA



**KENYA LAW**  
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**Sindani v Republic (Criminal Revision E116 of 2024)  
[2025] KEHC 9188 (KLR) (27 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9188 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E116 OF 2024  
RN NYAKUNDI, J  
JUNE 27, 2025**

**BETWEEN**

**PETER KULOBA SINDANI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before this court is an application dated 6<sup>th</sup> day of May 2024 seeking the following orders:
  - i. That this matter be considered as urgent and be heard on a priority basis
  - ii. That I am the applicant herein seeking for sentence revision in criminal case 2660 of 2005 Bungoma chief Magistrates court for an offence of robbery with violence contrary to section 295 as read with section 296(2) of the [Penal Code](#)
2. The application is anchored on grounds that are enumerated as follows:
  - i. That I was charged with an offence of robbery with violence contrary to section 295 as read with 296(2) of the [penal code](#) and sentenced to suffer death at Bungoma chief magistrates' courts
  - ii. That my first appeal in HCCRA no. 13 of 2008 at Bungoma high court was dismissed in its entirety
  - iii. That I filed an appeal to the court of appeal in criminal appeal no. 270 of 2009 Eldoret which was dismissed
  - iv. That I am the applicant herein seeking for sentence revision in criminal case no. 2660 of 2005 at CM'S court at Bungoma



- v. That the high court has competent jurisdiction to hear and determine this sentence revision application under article 22 and article 165(3) (b) of the Constitution of Kenya 2010 at Eldoret high court
  - vi. That under the constitution of Kenya under article 50(2) (p) (q) an applicant has a right to benefit from the least severe sentence and have his sentence reviewed
  - vii. That a life sentence contravenes section 216 and 389 of the criminal procedures codes on mitigation and the values of sentencing as in the sentence policy guidelines 2016 paragraph 4;1
  - viii. That under the constitution of Kenya 2010 and practice and procedures rules 2010 this court has power to hear and determine infringements of fundamental rights and award remedies
3. In further support of the application, the applicant swore an affidavit in which he deposed as follows:
- a. That I am a Kenyan male adult of sound of mind and duly competent to swear this affidavit in a court of law.
  - b. That I was charged with an offence of robbery with violence contrary to section 296(2) of the penal code and sentenced to death at Bungoma chief magistrates' courts.
  - c. That my first appeal in HCCRA no. 13 of 2008 at Bungoma high court was dismissed in its entirety.
  - d. That I filed an appeal to the court of appeal in criminal appeal no. 270 of 2009 Eldoret which was dismissed.
  - e. That the high court has competent jurisdiction to hear and determine this sentence revision application under article 22 and article 165(3) (b) of the constitution of Kenya 2010 at Eldoret high court.
  - f. That under the constitution of Kenya under article 50(2) (p) (q) an applicant has a right to benefit from the least severe sentence and have his sentence reviewed.
  - g. That a life sentence contravenes section 216 and 389 of the Criminal Procedures Codes on mitigation and the values of sentencing as in the sentence policy guidelines 2016 paragraph 4;1.
  - h. That under the provisions of the constitution of Kenya 2010 and practice and procedures rules 2010 this court has power to hear and determine infringements of fundamental rights and award remedies.
  - i. That the respondents suffer no prejudice if the orders I am seeking are awarded.
  - j. That I am pauper who cannot incur any costs for preparation of this application thus pray that such costs be waived.
  - k. That I swear that all I have deposed herein above is true and correct to the best of my knowledge, information and belief.

## Decision

4. In recent years in both criminal, civil and other branches of law the jurisdiction of courts has undergone significant expansion. This is in keeping with rapid increase on the use of virtual courts. Kenya law has kept pace with the general thrust of embracing technology as enabler of the administration of justice. A plaintiff, petitioner or convict in a criminal case has a right to approach an appropriate forum to



enforce the rights and obligations created by the constitution on the statute law. In the same breadth our jurisprudence is designed to protect the applicant, litigant or petitioner against an unnecessary wide discretion of power to institute his or her claim on any forum within our legal system. The particular test to be used depends on whether there is an alternate adjudicatory forum perhaps more appropriate, forum available to try the case and the one elected by any party to a suit.

5. A fundamental characteristics of the law that has developed over time in this area is the recognition that the plaintiff, claimant, petitioner, applicant, convict etc commencing an action may be motivated by factors of unfairness, insincerity, dishonesty or bad faith in instituting the claim, petition or suit in a forum of non-conveniens.
6. It should be noted that the applicant was tried at Bungoma high court and therefore any applications arising out of that process should be lodged at the same forum. For the purposes of the justice test, Eldoret High court is a forum of Non Conveniens.
7. This application lacks merit on want of territorial jurisdiction. The same is dismissed under section 382 of the CPC

**DATED AND DELIVERED AT ELDORET THIS 27<sup>TH</sup> DAY OF JUNE 2025**

.....

**R. NYAKUNDI**

**JUDGE**

