



**Kasivuli v Republic (Criminal Revision E061 of 2025)
[2025] KEHC 12392 (KLR) (3 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12392 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E061 OF 2025
RN NYAKUNDI, J
SEPTEMBER 3, 2025**

BETWEEN

PAULO KASIVULI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of stealing. The brief facts are on the 24th day of December 2024, at Kahoya Estate Kapyemit location in Turbo sub-county, within Uasin Gishu County, stole a mobile phone make camon 19 valued at Kshs. 25,000 the property of Cleare Minayo.
2. The applicant on his own plea of guilty was convicted and sentenced to a fine of 40,000/= on default 10 months imprisonment on 31st January 2025. He has now approached this court for review of sentence under section 362 & 364 of the CPC.

Decision

3. In reviewing the sentence, the Court of Appeal in Bernard Gacheru Vs. Republic [2002] eKLR has provided the guidelines to be followed as herein under stated:

“It is now settled law, following several authorities by this court and by the high court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal, the appellate court will not easily interfere with sentence unless, the sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account some wrong material, or acted on a wrong principle. Even if, the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already states are shown to exist.”



4. It is essential that the scope of review of sentence is in consonant with the above principles. Unfortunately for the applicant, he has not met the criteria to justify the objectives of reviewing the sentence and have it substituted with a lesser period or alternatively non-custodial sentence. The application is therefore dismissed under section 382 of the Criminal Procedure Code

DATED, SIGNED AND DELIVERED VIA CTS AT ELDORET THIS 3RD DAY OF SEPTEMBER 2025

.....

R. NYAKUNDI
JUDGE

