



**Kipkurui v Republic (Criminal Revision E030 of 2025)  
[2025] KEHC 12354 (KLR) (3 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12354 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL REVISION E030 OF 2025  
RN NYAKUNDI, J  
SEPTEMBER 3, 2025**

**BETWEEN**

**BRIAN KIPKURUI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant Brian Kipkurui was charged with the offence of assault causing actual bodily harm, contrary to Section 251 of the Penal Code.
2. The brief facts of the particulars are that on the 27<sup>th</sup> day of November 2024 at Jua Kali shopping center, Kamagut Location, Turbo Sub-County within Uasin Gishu County, assaulted Kevin Abdi thereby occasioning him actual bodily harm.
3. The Applicant entered a plea of guilty, was thereafter convicted and sentenced to a fine of Ksh 60,000/= in default to serve one-year imprisonment. He is aggrieved with the sentence and seeks review under Article 165 (6) (7) of the Constitution as construed with Section 362 and 364 of the Criminal Procedure Code.

**Decision**

4. On review of sentence the law is now settled as grounded on the following cases: Court of Appeal in Benard Gacheru v Republic [2002] eKLR has set out the strict scope in which to navigate the landscape of review:

“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, that 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 feels that the sentence is heavy and that 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 is shown to exist.”

5. The Privy Council in *Spence v. The Queen; Hughes v. the Queen (Spence & Hughes)* (unreported, 2 April 2001) it was stated that:

“In order to be exercised in a rational and non-arbitrary manner, the sentencing discretion should be guided by legislative or judicially prescribed principles and standards, and should be subject to effective judicial review ...”

6. The law is also settled that for an appeal’s court to review the sentence imposed by the trial court, the order must show an error obvious on the face of the record which cannot be established by a long-drawn process of reasoning for one to identify a manifestation of wrong exercise of discretion. My appreciation of the record does not satisfy any inadequacies in the judgment of the trial court to warrant review of sentence. The application is dismissed under Section 382 of the *Criminal Procedure Code*.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT ELDORET THIS 3<sup>RD</sup> DAY OF SEPTEMBER 2025.**

**R. NYAKUNDI**

**JUDGE**

