



REPUBLIC OF KENYA



**Matei v Republic (Criminal Revision E027 of 2025)
[2025] KEHC 12334 (KLR) (3 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12334 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E027 OF 2025
RN NYAKUNDI, J
SEPTEMBER 3, 2025**

BETWEEN

MICHAEL AWALI MATEI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Michael Awali Matei was charged with the offence of being in possession of cannabis (Bhang) sativa contrary to Section 3(1) as read with section 3(2) (a) of the Narcotic Drugs and Psychotropic Substances Control Act No. 3 of 2022.
2. The brief facts of the particulars are that on the 11th day of December 2024 at about 1930hrs at Maili Nne area in Turbo Sub-County within Uasin Gishu County was found in possession of cannabis sativa (Bhang) to wit 4gms of 5 rolls and 8.43 grams of dry green plants with a total of street value of Kshs 622/= which was not medically prepared.
3. The Applicant in his own plea of guilty was found guilty and sentenced to serve one (1) year imprisonment. He now seeks review of sentence under Section 362 as read with Section 364 of the Criminal Procedure Code.

Decision

4. These provisions deal with irregularity, impropriety, unjustness, illegality of the impugned order on sentence. There are also the provisions of Section 382 of the Criminal Procedure Code which states as follows:

“Subject to the provisions hereinbefore contained no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or revision on account of an error, omission or irregularity in the complaint, summons, warrant, charge,



proclamation, order, judgment or other proceedings before or during the trial or in any inquiry or other proceedings under this Code, unless the error, omission or irregularity has occasioned a failure of justice:

Provided that in determining whether an error, omission or irregularity has occasioned a failure of justice the court shall have regard to the question whether the objection could and should have been raised at an earlier stage in the proceedings.”

5. In my considered view, the application for review of sentence does not meet the threshold of the Benard Kimani Gacheru case which states as follows:

“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.”

6. The application is therefore dismissed for want of merit with no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT ELDORET THIS 3RD DAY OF SEPTEMBER 2025.

.....
R. NYAKUNDI

JUDGE

Representation:

M/s Sidi Kirenge for the State

