



**Orindi v Republic (Miscellaneous Criminal Application
E036 of 2023) [2024] KEHC 610 (KLR) (30 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 610 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E036 OF 2023**

**DO OGEMBO, J
JANUARY 30, 2024**

BETWEEN

STEVE ODHIAMBO ORINDI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, Steve Odhiambo Orindi, has moved this court by way of a Notice of Motion application dated 18-3-2023. In the said application, the applicant seeks revision of his sentence. The application is based on grounds on the face of it, basically raising factors of mitigation. That the applicant has undergone rehabilitation and reformation, and that he is remorseful and asks for forgiveness. He submitted on the same.

The Prosecution has not made any substantive response to this application.

I have considered this application and the submissions filed by the applicant. I have also considered the record of proceedings of this case.

2. The applicant was charged with the offence of Manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#). He faced a 2nd count of arson contrary to Section 332(c) of the [Penal Code](#). After full trial, the applicant was sentenced as follows: - Count I - To serve 15 years imprisonment.

Count II - To serve 5 years imprisonment.

3. The sentences were ordered to run concurrently.



Vide this application, the applicant urges this court to exercise the revisionary powers over the said sentence of the trial court. This court derives its revisionary powers under Section 362 of the Criminal Procedure Code. The same provides;

“The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying 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.”

4. The above provision places the applicant the burden of proving the incorrectness, illegality or impropriety in the order, finding or sentence of the lower court. No attempt has been made by the applicant to meet this threshold.

It is also worth noting that the sentences passed by the lower court on the applicant are both legal and proper. The applicant, on his own volition withdrew his Appeal No. E004 of 2022. And his application for revision of sentence under Section 333(2) of the Criminal Procedure Code was subsequently allowed by the court in the ruling delivered on 14-6-2022.

5. Having failed to meet the threshold for an order of revision under Section 362 of the Criminal Procedure Code, I do not find any merit in the application of the applicant dated 18-3-2023. The same is wholly dismissed.

It is so ordered.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 30TH DAY OF JANUARY, 2024

D.O. OGEMBO

JUDGE

Court:

Ruling read out in court in the presence of the Accused and Ms. Mumu for State.

D.O. OGEMBO

JUDGE

