



REPUBLIC OF KENYA



**Ntoribi v Director of Public Prosecutions (Petition E237 of 2023)
[2024] KEHC 5546 (KLR) (25 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 5546 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
PETITION E237 OF 2023
TW CHERERE, J
APRIL 25, 2024**

BETWEEN

ERICK MWENDA NTORIBI APPLICANT

AND

DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

RULING

1. Applicant was charged, tried and convicted in Tigania Criminal Case No. 825 of 2015 for the offence of defilement contrary to section 8(1) as read with Section 8(3) of the [Sexual Offences Act](#) and was on 12th June, 2017 sentenced to serve 20 years imprisonment.
2. His appeal vide Meru Criminal Appeal No. 143 of 2017 was dismissed. Applicant did not appeal to the Court of Appeal.
3. Applicant seeks that the sentence be subjected to the provisions of Section 333(2) of the [Criminal Procedure Code](#) so that the time he spent in custody can be accounted for.
4. The Court of Appeal held in the case of [Bethwel Wilson Kibor vs Republic](#) [2009] eKLR that: -

“By proviso to section 333(2) of the [Criminal Procedure Code](#), where a person sentenced has been held in custody prior to such sentence, the sentence shall take into account of the period spent in custody...”
5. Applicant was arrested on 26th May, 2015 and remained in custody throughout the trial.
6. It is therefore ordered that the 20 years imprisonment term imposed on the Applicant shall be computed from 26th May, 2015 when he was arrested.

DELIVERED AT MERU THIS 25TH DAY OF APRIL 2024.



WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

Applicant - Present

For Applicant - Mr. Muriuki for Mbogo & Muriuki & Co. Advocates

For the DPP - Ms. Rita Rotich (PC-1)

