



**Ngechu v Republic (Miscellaneous Criminal Application  
E037 of 2023) [2024] KEHC 6031 (KLR) (27 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6031 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
MISCELLANEOUS CRIMINAL APPLICATION E037 OF 2023**

**MA ODERO, J**

**MAY 27, 2024**

**BETWEEN**

**MURUNGU MAINA NGECHU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before this court is an Criminal Revision Application dated 8<sup>th</sup> May, 2023 filed by the applicant Murungu Maina Ngechu seeking review of his sentence.
2. The Hon. DPP opposed the application.

**Background**

3. The Applicant herein had been charged with the offence of threat to kill contrary to Section 223 (1) of the *Penal Code* Cap 63 Laws of Kenya. The facts were that on 6<sup>th</sup> May, 2022 at Keriko Village Tetu Sub-County in Nyeri County, the Applicant while armed with a Panga threatened to kill Muthoni Wambui Ngechu (his mother).
4. Initially the Applicant entered a plea of Not Guilty to the charge. The trial commenced in the lower court on 18<sup>th</sup> August, 2022 on which date the complainant tendered her evidence.
5. Thereafter on 17<sup>th</sup> October, 2022 the Applicant changed his plea to one of Guilty. The facts were read out and the Applicant maintained his plea of Guilty.
6. On 10<sup>th</sup> November, 2023 the learned trial magistrate sentenced the Applicant to serve seven (7) years imprisonment with no option of a fine. The Applicant has now been in prison for one (1) year and two (2) months.



## Analysis And Determination

7. The power of the High Court to review sentences is provided by Section 362 of the [Penal Code](#) which provides as follows:-

“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 in any such subordinate court.”
8. The orders which the court may make upon revision are provided for under Section 364 of the [Penal Code](#).
9. Having considered this application for review, I note that the Applicant opted to plead guilty thus saving the court from the rigors of a full trial. I have also perused and put into consideration the recommendation reports dated 8<sup>th</sup> February, 2024 and 30<sup>th</sup> October, 2023 prepared by the officer in charge Nyeri Main Prison which indicates that the Applicant has been of exemplary behaviour whilst in prison.
10. However I do note that the complainant was the mother of the Applicant and I further note that the Applicant was not a first offender. He had earlier served a sentence of two (2) years’ probation and whilst out on probation committed this current offence. As such the Applicant already under benefit of a non-custodial sentence proceeded to offend again.
11. The offence with which the Applicant was charged is a Felony with a Maximum sentence of ten (10) years imprisonment.
12. It is my considered opinion that the sentence of seven (7) years though lawful was a tad excessive. In the circumstances I set aside the seven (7) year sentence imposed by the trial court and in its place I substitute a sentence of four (4) years imprisonment. The sentence to run from the date the Applicant was first sentenced by the trial court. It is so ordered.

**DATED IN NYERI THIS 27<sup>TH</sup> DAY OF MAY, 2024.**

.....  
**MAUREEN A. ODERO**

**JUDGE**

