



**Ooyi v Republic (Miscellaneous Criminal Application  
E040 of 2024) [2024] KEHC 8038 (KLR) (28 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 8038 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS CRIMINAL APPLICATION E040 OF 2024**

**RE ABURILI, J**

**JUNE 28, 2024**

**BETWEEN**

**JAMES HUSSEIN OOYI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant in his application dated 3<sup>rd</sup> April 2024 is James Hussein Ooyi. He claims that he was convicted and sentenced to serve 7 years imprisonment in Winam SRM Sexual Offences Case No. E028 of 2021, for the offence of attempted rape and that sentence as imposed was to run from date of conviction yet he was in custody for 15 months. He does not state whether he ever appealed.
2. He has annexed warrant of commitment to prison term dated 5<sup>th</sup> July 2022 but no proceedings in the lower court are annexed for this court to verify whether he was in custody pending trial or not.
3. The warrant committing him to prison does not state the time the sentence was to run from. No charge sheet is annexed to indicate his date of arrest.
4. That being the case, this court is devoid of any material upon which it can invoke the provisions of Section 333(2) of the *Criminal Procedure Code* to consider with certainty the period spent in custody prior to sentencing.
5. The application dated 3<sup>rd</sup> April 2024 is dismissed.
6. Signal to issue.
7. This file is closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 28<sup>TH</sup> DAY OF JUNE, 2024**

**R. E. ABURILI**



**JUDGE**

