

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL REVISION NO E123 OF 2021

TMK.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Revision from original Sentence dated 13.08.2021 in Nanyuki

CM Criminal Case No E1907 of 2021 – B M Mararo, PM)

J U D G M E N T

1. On 13/08/2021 the Applicant herein, TMK, was convicted upon his own plea of the offences of ***house-breaking and stealing from therein*** contrary to **sections 304(1) (a) and 279 (b)** of the ***Penal Code*** and sentenced to 2 years imprisonment in each count, to run concurrently. He appealed against the sentence vide ***Nanyuki HC Criminal Appeal No E070 of 2021***. That appeal is pending disposal.

2. The Appellant has now applied for revision of his sentence by his application herein filed on 26/10/2021. In his supporting “*affidavit*” he pleads for a non-custodial sentence

“In order to allow (him) to continue with (his) studies. He also states that he is “remorseful and...ready to be a law-abiding citizen to keep peace and order in the society...”

3. Learned counsel for the Respondent has opposed the application, submitting that there is no error apparent on the face of the record of the trial court, and that the Applicant should pursue his pending appeal against sentence.

4. When this court asked the Applicant his age, he replied that he was born on 10/08/2002. At the time he was convicted and sentenced on 13/08/2021 he was thus 19 years old. At the time of the offence on 01/08/2021 he was just shy of 19 years in age.

5. The power of revision of this court under **sections 362 and 364** of the ***Criminal Procedure Code***, is exercised -

“...for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed (by a subordinate court), and as to the regularity of the proceedings.”

Upon perusal of the record of the trial court, I do not find anything irregular in the proceedings before that court. I also do not find anything incorrect, illegal or improper about the sentence meted out to the Applicant.

6. In the result I find no merit in this application for revision, and it is hereby dismissed. Let the Applicant pursue his appeal against the sentence.

DATED AND SIGNED AT NANYUKI THIS 23RD DAY OF FEBRUARY 2022

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 24TH DAY OF FEBRUARY 2022