



**Silai v Republic (Criminal Review 103 of 2021)
[2022] KEHC 13015 (KLR) (22 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13015 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKUENI
CRIMINAL REVIEW 103 OF 2021
GMA DULU, J
SEPTEMBER 22, 2022**

BETWEEN

PETER NGOMOLI SILAI APPLICANT

AND

REPUBLIC RESPONDENT

(Application from decision in Kilungu PM Traffic Case No. 299/E280 of 2021 – E. Muiru PM)

RULING

1. The applicant herein was convicted by the magistrate’s court at Kilungu for two traffic offences on a plea of guilty and sentenced to pay fines and, in default to imprisonment on March 29, 2022.
2. Under count I, he was convicted of causing an accident by careless driving contrary to section 49 of the *Traffic Act* and sentenced to pay a fine of Kshs.50,000/= and in default to serve 6 months imprisonment.
3. Under count II, he was convicted of driving under the influence of alcohol contrary to section 44(1) of the *Traffic Act* (cap 403) and sentenced to pay a fine of Kshs.80,000/= and in default to serve one (1) year imprisonment.
4. He has now come to this court requesting for revision orders through counsel M/s J.M Tamata & company advocates, through an application dated June 28, 2021. The application was filed with a supporting affidavit sworn on June 28, 2021 by the applicant, highlighting the reasons for seeking revision orders from this court.
5. Though this court is not necessarily required to give audience to parties in exercise of its revision jurisdiction, I allowed both the counsel for the applicant and the Director of Public Prosecutions to file written submission, which I have perused and considered.



6. I note that the reasons advanced for seeking the revision orders are first the legality of the sentence and process of the proceedings. Secondly, that the pleas in mitigation were ignored. Thirdly, that the plea of guilty was unequivocal. Fourthly and lastly, that the facts summarized were vague.
7. This request for revision will not succeed, as the law is clear regarding the exercise of this court's powers in revision. First the powers of this court in revision are discretionary and are meant only to correct obvious errors on the face of the subordinate court's records, in order to do justice to those affected by the subordinate court's orders, and not to deal with substantive decisions made by the trial court.
8. This court has not been referred to any error on the face of the record the magistrate's court herein that would call for correction by this court in revision. The complaints raised, even assuming they are true, are substantive in nature and amount to grounds of appeal which cannot be addressed through the exercise of the discretionary revision powers of the High Court.
9. Secondly, the person who has approached this court for exercise of its revision jurisdiction, is the person who is entitled to appeal in this matter to challenge the trial court's findings, and decisions. In this regard, I rely on section 364 of the *Criminal Procedure Code* (cap 75) which specifically bars this court from entertaining any request for revision by a person entitled to appeal. On that account also the request for revision herein will fail, as the appropriate avenue available by law is for him to appeal.
10. Consequently, I find no merits in the request for revision herein, and dismiss the same.

DELIVERED, SIGNED & DATED THIS 22ND DAY OF SEPTEMBER 2022.

IN OPEN COURT AT MAKUENI.

GEORGE DULU

JUDGE

