



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**CRIMINAL DIVISION**

**CRIMINAL REVISION NO. E003 OF 2020**

**ANAS SAID ALI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**R U L I N G**

1. ANAS SAID ALI was charged in Msambweni CR. Case No. E114 of 2020 With 3 counts of offences under the citizenship and Immigration Act and he pleaded guilty and was convicted and fined Kshs.20,000/- for each count in default 2 months imprisonment. It was ordered that after paying fine or serving the default sentence.
2. When the applicants advocate went back to the court to seek that the sentence be revised for reasons the applicant was a refugee and his green card had been availed to show that he was a refugee in Uganda the trial court said that matter should be filed in High Court as the trial Magistrate had become *functus officio*.
3. The applicants advocate wrote a letter dated 21<sup>st</sup> January 2021 seeking that orders made on Msambweni on 22<sup>nd</sup> December 2020 directing that Anas Said Ali be repatriated to Somalia should be revised to read that he should be repatriated to Uganda. This application was canvassed by Ms. Mwangeka oral submission and Mr. Odiagas written submissions filed on 10/2/2021.
4. I have perused the trial courts records and confirmed that applicant herein pleaded guilty to the offences preferred against him and he indeed seeks, revision went in terms of his destination for repatriation. In mitigation the applicant only said "I agree to my mistake". He didn't tell court where he had come from and where he was going and the court could not have assumed he was a registered refugee without such evidence being tendered by the applicant.
5. I do find that there was no error or illegality or irregularity has been shown in the orders issued by the trial Magistrate save that evidence of applicant's refugee status was availed much later after the court had concluded the proceedings.
6. The applicant claims to be a registered refugee in Uganda but was arrested in Kwale County and he didn't explain in his mitigation how he came to be in Shanda Island from Uganda.
7. I will however make an order that the Refugee identity Card No. RM8-000[...] be subjected to verification by the OCS Central police station through Immigration to establish authenticity and thereafter repatriate applicant either to Somalia or Uganda depending on the outcome of verification.

**Dated, signed and delivered at Mombasa this 25<sup>th</sup> day of February, 2021 by Microsoft Teams/Open Court.**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**