



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION NO. E008 OF 2021

CORAM: R.E. ABURILI, J

JACKSON OKIA MUGOMA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for Revision of sentence in Ukwala Principal Magistrate Court

Cr. Case No. 92 of 2021 on 10/2/2021 by Hon. C.I. Agutu, Senior Resident Magistrate)

RULING

1. I have perused the proceedings before the trial court at Ukwala PM's court before Hon. C.I. Agutu Senior Resident Magistrate as conducted on 10/2/2021 where the inmate herein Jackson Okia Mugoma is said to have pleaded guilty to the charge of Manufacturing Alcohol Drinks contrary to Section 32(8) of the Alcohol Drinks Control Act No. 4 of 2010 and sentenced to a fine of Kshs. 200,000/= in default to serve one year in prison.
2. I have also considered the request for Sentence Review filed by the inmate through his counsel Mr. Ochanyo.
3. I observe that the sentence imposed was commensurate with the offence as the liquor-Kangara that the applicant was found in possession of was excessive.
4. However, I note with concern that the Plea was hurriedly taken. It was unequivocal in the sense that no facts were read out to the accused and neither was he convicted by the trial magistrate.
5. In addition, there was no production of any exhibit of what he was allegedly found in possession of.
6. It follows that the sentence imposed on the accused was without any legal basis, the proceedings having been irregularly conducted. This is a suitable case for revision of the proceedings as a whole, as conducted before the trial court, and not just the sentence issue.
7. Accordingly, I hereby quash the entire proceedings conducted by Hon. C.I. Agutu Senior Resident Magistrate in Ukwala PM Cr. Case No. 92 of 2021. I set aside the sentence imposed on the applicant and order that unless otherwise lawfully held, Jackson Okia Mugoma is hereby set at liberty.
8. This ruling to be served upon Hon. C.I. Agutu, Senior Resident Magistrate, Ukwala for noting as there are many other matters of this nature emanating from her court.
9. File closed.
10. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 28TH DAY OF JUNE, 2021

R.E. ABURILI

JUDGE