

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION CASE NO. E041 OF 2021

WILLIAM OKEYO ONDUTA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Revision Application from the judgment, conviction and sentence in

BONDO PM'S MAGISTRATES COURT NO. 1021 OF 2019 on 2.12.2019

by Hon. EN. Wasike – Senior Resident Magistrate)

RULING

1. The Convict William Okeyo Onduta was charged with the offence of Obtaining **Money by False Pretences contrary to Section 313 of the Penal Code**. The offence occurred on 5.8.2019 at Uyawi Village, Bondo Sub-County within Siaya County. The amount falsely obtained was KShs.300,000/= and the Complainant is Pauline Samba.

The convict was sentenced to serve 2½ years imprisonment after pleading guilty to the charge. The offence is that he falsely pretended that he was in a position to sell a piece of land to the complainant in Uyawi, a fact he knew to be false. The Convict is a first offender and pleaded guilty. The plea of guilty was unequivocal. He has now served 1 year and a half leaving one year of the prison term.

2. The sentence imposed was lawful and lenient. The inmate did not appeal against his conviction and sentence. However, the Probation Report which recommends release of the Offender is too sketchy and the victim appear not to have been contacted for her views on the request for sentence revision. She lost KShs.300,000/= which has not been refunded although in mitigation the offender said he wanted to refund the money. KShs.300,000/= is not little money. It is hard earned money. In the absence of any evidence that the offender has made good his attempt to refund the money fraudulently obtained from Complainant, I find no reason to interfere with the lenient lawful sentence imposed.

3. I decline to revise the sentence of 2½ years imprisonment imposed on the Convict William Okeyo Onduta and Order that he serves full sentence.

4. Orders accordingly.

5. File closed.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 25TH DAY OF JUNE, 2021

R. E. ABURILI

JUDGE