



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL REVISION E050 OF 2021**

**CHARLES OWINO ODHIAMBO.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an Application for Revision of sentence in Ukwala PMCCRC*

*125 of 2021 on 1.3.2021 by Hon. C.I. Agutu - Senior Resident Magistrate)*

**RULING**

1. The applicant is **Charles Owino Odhiambo** aged 42 years old. He was charged with the offence of being in possession of narcotic drugs contrary to **Section 3(1) as read with Section 3(2) (a) of the Narcotic drugs and Psychotropic Substances control Act No. 4 of 1994**. He is recorded as having pleaded guilty to the charge and facts upon which he mitigated and was sentenced to a fine of KShs.150,000/= in default to serve two years imprisonment. The 11 brooms of bhang were to be destroyed.

2. From the above record of proceedings, it is clear that the plea was unequivocal as there is no Conviction of the applicant. There is also no evidence that the 11 brooms produced as exhibit 1 were Cannabis Sativa (bhang).

3. In view of the serious irregularities in the proceedings which irregularities are material and fatal, I hereby quash the proceedings of 1.3.2021 conducted by Hon. C.I. Agutu, Senior Resident Magistrate, Ukwala and set aside the sentence imposed on the applicant who has already served nearly 4 months of the 2 years imprisonment.

4. Unless otherwise lawfully held, the applicant Charles Owino Odhiambo is hereby set at liberty forthwith.

5. File closed.

6. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 24<sup>TH</sup> DAY OF JUNE, 2021**

**R.E. ABURILI**

**JUDGE**