

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CRIMINAL REVISION CASE NO. E222 OF 2021

MOSES MURIITHI.....1ST APPLICANT

JOSPHAT MUTETHIA.....2ND APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The accused was on 25th March 2021 convicted and sentenced to 2 years imprisonment for the offence of “Preparation to commit a felony” under Section 308 (1) of the Penal Code. The particulars of offence were that the accused persons were jointly found armed with a dangerous weapon namely a dagger (Somali sword) in circumstances that indicated that they were so armed with the intent to commit a felony namely robbery with violence to one Julius Kiriimi.
2. The Community Service Order Officer recommends non-custodial sentence for the remainder of the sentence. The DPP opposed the revision citing the gravity of the offence and the lack of remorse on the part of the accused.
3. The Court agrees that the gravity of the offence and the circumstances of the same require a deterrent sentence. The sentence of imprisonment for 2 years is not excessive against the possible maximum of 15 years and minimum of 7 years prescribed for the offence of preparation to commit a felony under Section 308 (1) of the Penal Code. It would appear that the appropriate sentence was the minimum of 7 years, but as there is no appeal by the Prosecution on the sentence, this Court will not disturb it.

ORDERS

4. Accordingly, for the reasons set out above, the revision of the sentence is declined.

Order accordingly.

DATED AND DELIVERED THIS 25TH DAY OF NOVEMBER 2021.

EDWARD M. MURIITHI

JUDGE

Appearances:

Moses Muriithi, the 1st Applicant in person.

Josephat Mutethia, the 2nd Applicant in person.

Ms Nandwa, Prosecution Counsel for the Respondent.