

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL REVISION NO. E104 OF 2021

SC.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. This is Revision Application seeking review of the Trial Court's sentence of twelve (12) months imprisonment meted upon the applicant on 11/11/2021 for the offence of Neglecting a Child Contrary to Section 127 (1) (b) of the Children Act No. 8 of 2001.

2. The High Court is clothed with supervisory powers over subordinate courts *vide* section 165 (6) of the Constitution of Kenya which states as follows:-

"The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court."

3. The High Court has powers to call for records of any criminal proceedings before any subordinate court under Section 362 of the Criminal Procedure Code which states as follows:-

Power of High Court to call for records "The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court."

4. This Court called for a Social Inquiry Report which has detailed the social circumstances of the Applicant.

5. The Applicant is a young girl aged eighteen (18) years old and the victim is her biological child aged seven (7) months. The Applicant is a single mother with no source of income.

6. The Applicant is in need of counselling and social support considering the age of the applicant and circumstances.

7. It is noted with concern that the Applicant was sentenced to jail with the child she is accused of neglecting amounting to punishing an innocent child for the sins or omissions of the mother.

8. I find that this case is suitable for a non-custodial sentence.

9. I hereby order that the Applicant be placed on probation for a period of six (6) months.

10. The County Probation Officer to organize for Counselling Services for the applicant during that period.

Delivered, dated and signed at Kericho this 20th day of December 2021.

A. N. ONGERI

JUDGE