



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO.98 OF 2020**

**CHRISTOPHER KABARU.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Revision of the Original Sentence dated 06.05.2020 in Nanyuki Criminal Case No.362 of 2020– L. Mutai, CM)*

**27.05.2020**

Before Justice H P G Waweru

In Chambers

**ORDER ON REVISION**

1. Upon request by the Convict herein, I have called for and examined the record of the trial court.
2. The Convict, CHRISTOPHER KABARU, was convicted upon his own plea of *Breach of Curfew Order* contrary to *Order 3 of the Public Order (State Curfew) Order, 2020* as read with *Section 8(6) of the Public Order Act, Cap 56*.
3. On 06.05.2020 the Convict was sentenced to a fine of Kshs.10,000= and in default of payment, to serve six (6) months imprisonment. He did not pay the fine.
4. The default term of imprisonment of six (6) months is illegal. It should not exceed three (3) months imprisonment for a fine of Kshs.10,000/00. See *Section 28(2) of the Penal Code*.
5. In the circumstances, I will set aside that term of imprisonment of six (6) months.
6. Because of the Coronavirus (COVID-19) crisis in our country, and in order to assist in de-congesting the prisons, I shall substitute a term of imprisonment equivalent to the time already served by the Convict.
7. That means that the Convict shall be set at liberty forthwith unless otherwise lawfully held. It is so ordered.

**DATED AT NANYUKI THIS 27<sup>TH</sup> DAY OF MAY, 2020**

**H.P.G. WAWERU**

**JUDGE.**

**DEPUTY REGISTRAR**

**NANYUKI HIGH COURT**