

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NANYUKI

CRIMINAL REVISION NO.97 OF 2020

PERIS NYAMBURA WAITU.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Revision of the Original conviction and Sentence in Nanyuki Criminal Case No.287of 2020 – NJERI THUKU - PM)

25.06.2020

Before Justice H P G Waweru

In Chambers

ORDER ON REVISION

1. Upon application herein by the convict, **PERIS NYAMBURA WAITU**, I have called for and examined the record of the trial court with regard to the sentence.
2. The convict was convicted after trial of obtaining money by false pretences contrary to Section 313 of the Penal Code. On 30/04/2020 she was sentenced to serve 2½ years imprisonment. Her co-accused, **DANIEL MWANGI KARANJA**, was similarly convicted and sentenced. Another co-accused, **WINNY WANJIKU KINYA** (alias MARGARET WANJIRU KANINI) absconded the trial and is still at large, with warrant out for her arrest.
3. In mitigation the convict herein, through counsel, pointed out that she had been in custody for two (2) years during the trial. She was also a first offender who had children who solely depended on her.
4. Although the trial court stated that it had considered the convict's mitigation, it did not specifically and particularly take into account, as it should have done, the period the convict had spent in custody during her trial, as required by the proviso to Section 333 of the Criminal Procedure Code, Cap 75.
5. In the circumstances, I shall alter the sentence of 2 ½ years imprisonment imposed upon the convict by taking into account the two (2) years she had spent in custody during her trial.
6. The sentence of 2 ½ years imprisonment is therefore set aside and in its place a sentence of six (6) months imprisonment with effect from 30/04/2020 substituted. It is so ordered.

Dated at Nanyuki this 25th day of June 2020.

H.P.G. WAWERU

JUDGE.

DEPUTY REGISTRAR

NANYUKI HIGH COURT