

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL MISC. APPLICATION CASE NO. 308 OF 2019

RICHARD MUTUNGA MUTUKU.....APPLICANT

VERSUS

DIRECTOR OF PUBLIC PROSECUTIONS.....RESPONDENT

RULING

The applicant **RICHARD MUTUNGA MUTUKU** filed this application dated 20.11.2019 on 21.11.2019. The same, brought under section 362 and 364 of the Criminal seeks revision of sentence meted out to the applicant. Facing a charge of using a motor vehicle on road with a load greater than a load specified, he was sentenced to a fine of Ksh.200,000/= or in default to serve 2 years imprisonment. This was on 25.9.2019. The application asks the court grant the applicant an alternative sentence, preferably a non-custodial sentence.

In his submissions in court, the applicant pleads that he has served for 1 year and 3 months. The learned counsel for the prosecution did not oppose this application.

I have considered the submissions of both sides herein. I have also considered the nature of the offence the applicant was convicted of and the fact that he has served all but 4 months of the sentence of 2 years. I am convinced that this is a proper case for revision. I accordingly allow this application and alter the sentence herein. The applicant is discharged for the remaining part of the sentence (approximately 4 months). He is hereby ordered to be released forthwith unless lawfully held.

HON. JUSTICE D. OGEMBO OGOLA

16TH OCTOBER 2020

Court:

Ruling read out online in the presence of the applicant and Ms. Chege for the state.

HON. JUSTICE D. OGEMBO OGOLA

16TH OCTOBER 2020