



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO. 23 OF 2018**

**REPUBLIC.....RESPONDENT**

**VERSUS**

**EMANUEL BETT ....APPLICANT**

(From The Original Conviction And Sentence In Cr. Case No. 1218 Of 2017 In The Chief Magistrate's Court At Narok, R. V. Emanuel Bett)

**RULING**

1. Her honour, Wilbroda Juma, has reported the above matter to this court for revision pursuant to her powers under section 363 of the Criminal Procedure Code (Cap 75) Laws of Kenya.
2. The basis of the report is that the trial court sentenced the respondent to a fine of shs.30,000/= in default to serve twelve months imprisonment in respect of the offence of stealing one hooper make tagwood valued at Shs.6,800/=
3. Section 28 of the Penal Code (Cap 63) Laws of Kenya provides for a default sentence of six months imprisonment for a fine that is between shs.15,000/= and Shs.50,000/=.
4. It therefore follows that the default sentence of twelve months that was imposed upon the respondent was unlawful.
5. The upshot of the foregoing is that the entire sentence is hereby quashed. If the fine was paid, it should be refunded.
6. The respondent is hereby set free unless he is held on other lawful warrants.

**Order dated and signed at Narok this 30<sup>th</sup> day of January, 2019**

**J. M. Bwonwonga**

**JUDGE**

**30/1/2019**