



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAROK**

**CRIMINAL REVISION NO. 50 OF 2018**

**REPUBLIC.....APPLICANT**

**-VERSUS-**

**DICKSON KESHEI.....RESPONDENT**

*(Being revision from the original conviction and sentence*

*dated 3<sup>rd</sup> April 2018 in Criminal Case No. 790 of 2017 in the*

*Chief Magistrate Court of Narok, Republic V. Dickson Keshei).*

**ORDER ON REVISION**

1. This matter has been reported to this court for revision by Hon. Chief Magistrate W. Juma, 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 sentence of a fine shs.30,000/= in default to serve twelve months imprisonment is not in accordance with the provisions of section 28 of the Penal Code (Cap 63) Laws of Kenya.
3. The provisions of that section direct that the default sentence of imprisonment of six months is to be imposed where the sentence of a fine is between Shs.15,000/= and shs.50,000/=
4. In the instant case, the trial court imposed a sentence of fine of Shs.30,000/= in default to serve twelve months imprisonment. It is clear therefore that the default sentence of twelve months imprisonment is unlawful.
5. The upshot of the foregoing is that the entire sentence is hereby quashed.
6. If the fine was paid, it should be refunded. Since the ends of justice have been met by the period the respondent has been in prison. He is therefore ordered to be set free unless otherwise held on other lawful warrants.

Order dated and signed at Narok this 28<sup>th</sup> day of January, 2019.

**J. M. Bwonwonga**

**Judge**

**28/1/2019**