



**REPUBLIC OF KENYA**

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

**MISC. CR. APPLICATION NO. 127 OF 2018**

**LUCY MURIUKI .....APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**RULING ON REVISION**

1. **Lucy Muriuki** was charged with the offence of selling alcoholic drinks without a licence in the **Meru CM's Cr. Case No 2136 of 2018**. On pleading guilty, she was fined KShs.150,000/- or serve one year imprisonment.

2. On 19<sup>th</sup> November, 2018, she applied to this court for review of that sentence under **section 364 of the Criminal Procedure Code, Cap 75 of the Laws of Kenya** alleging that the fine was excessive. She also alleged that she was unwell and

had a son who had a condition that required special attention. She contended that she should have been sentenced to a non-custodial sentence.

3. When the court retired to write the ruling, it found that the averments in the supporting affidavit were at variance with the original record of the trial court. It was clear that the applicant did not tell the trial court her predicament that she was raising in the supporting affidavit for her application for review. In this regard, the court suspended the writing of the ruling and ordered that the Probation Officer do make a report on the applicant. That order was made on 19<sup>th</sup> December, 2018 and the ruling fixed for 28<sup>th</sup> February, 2019.

4. While the said orders were still pending on 28<sup>th</sup> December, 2019, the applicant paid the entire fine that had been meted out on her and she was freed from custody.

5. Since the application for review was based on personal conditions that goes to mitigation and not any irregularity of the proceedings or orders made by the trial court, on the petitioner having paid this fine, the application for review has been overtaken by events.

Orders accordingly.

**SIGNED** at Meru

**A. MABEYA**

**JUDGE**

**DATED** and **DELIVERED** at Meru this 28<sup>th</sup> day of February, 2019.

**A. ONGI'NJO**

**JUDGE**