



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO. 01 OF 2019**

**MOSES MBURU NDUNGU.....APPELLANT**

**VERSUS**

**THE REPUBLIC.....RESPONDENT**

**{From original Conviction and Sentence of Hon. B. M. Kimtai – SRM in the Original Keroka Principal Magistrate’s Court Traffic Case No. 527 of 2018}**

**RULING**

The applicant in this case seeks revision of the sentence of the lower court under Sections 362 and 364 of the Criminal Procedure Code. He was sentenced to a fine of Kshs. 100,000/= or one (1) year imprisonment after pleading guilty to a charge of driving a motor vehicle on a public road under the influence of alcohol. Section 362 of the Criminal Procedure Code gives this court jurisdiction to examine the sentences of the lower court for correctness, legality or propriety and the regularity of the proceedings. In this case the applicant pleaded guilty, whereupon the facts were read to him and he admitted the same before he was convicted and sentenced to the fine he now seeks to set aside. An application for revision is not an appeal and **Section 364 (5) of the Criminal Procedure Code** makes it clear that where **“an appeal lies from a finding, sentence or order and no appeal is brought, no proceedings by way of revision shall be entertained at the insistence of the party who could have appealed.”**

I am not persuaded that there was any irregularity in the proceedings in the lower court. The correctness, legality and propriety of the sentence meted is also not in doubt as the sentence is what is prescribed by the law.

Accordingly, the application for revision has no merit and it is dismissed. Copy of this ruling be certified to Senior Resident Magistrate Keroka.

**E. N. MAINA – J**

**26/02/2019**