

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CORAM: R.E OUGO J.

CRIMINAL REVISION NO. 129 OF 2019

ESTHER KEMUNTO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

I have considered the application dated 17/9/2019. The respondent has conceded to the application. The charge as stated is defective. Though the applicant pleaded guilty to the said defective charge no facts were read to her by the trial court. The conviction was not based on any facts. This was irregular and not as per the law (see section 207 of the CPC). In the circumstances the conviction was unlawful, the conviction and sentence are set aside and the applicant is free to go unless lawfully held.

Ruling read and delivered in open Court this 23rd day of September 2019.

R.E OUGO

JUDGE

Miss Sagwa, Advocate for the applicant

Mr. Otieno, Senior Prosecution Counsel, instructed by the Office of the Director of Public Prosecutions, for the State.