



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERUGOYA

CRIMINAL REVISION NO. 12 OF 2019

(From Original Conviction and sentence in Criminal Case No.233 of 2019

of the Senior Principal Magistrate's Court at Baricho –A.K. Mwicigi -SPM

JECINTA WANGECHI MWANGI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The appellant was said to be a repeat offender. She was fined Kshs 50,000/- or i/d serve Nine months imprisonment. I have considered the Probation Officer's report which States that she is a repeat offender who is deep rooted in the vice and has defiled all efforts to rehabilitate her.
2. I find that the sentence imposed was deserved. I have no reason to interfere with the discretion of the trial Magistrate on sentencing.
3. I however note that under Section 28 of the Penal Code, where the fine imposed does not exceed Kshs 50,000/- the Maximum sentence in default is Six months.
4. The trial Magistrate made an error when he imposed a default clause of Eight Months. I therefore have reason to revise the sentence.
5. I order that the Sentence of the trial Magistrate is set aside. The sentence is substituted with the sentence of a fine of Kshs 50,000/- i/d serve Six months imprisonment from the date of the sentence.

Dated at Kerugoya this 29th day of November 2019.

L. W. GITARI

JUDGE

Read out in open court,

Applicant present,

P/C Ms. Muthoni.

C/A – Gichia.

L. W. GITARI

JUDGE