



**REPUBLIC OF KENYA**

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

**HC CR. REV. NO. 133 OF 2018**

**(CORAM: R. E. ABURILI - J.)**

**CHARLES MBOK NDUTA.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING ON REVISION**

The Convict/Applicant, Charles Mbok Nduta was convicted of the offence of grievous harm and sentenced to serve 7 years on 04/03/2015 by H. Wandera, PM, vide Siaya PMCr. Case No 843/2013. He has served almost 3½ years and has about 3½ years to complete sentence.

He never challenged the conviction and sentence. He is due to end his sentence on 04/03/2021. He now seeks review of his sentence to non-custodial sentence.

I have considered the evidence on record leading to his conviction and circumstances leading to the commission of the offence, the victim of the offence. I have also seen the Probation Officer's report dated and signed by Odumba David on 19/7/2018. The report is not favourable to the convict whose social relationship at home is poor and that he is not wanted at home. He is popularly known to be a violent person who could not live with his wife with whom they divorced and she later died. His hobby was to relax and consume busaa in dens. He has one son. The victim is a widow and lived or cohabited with the convict who inflicted on her grievous harm. She fears that if released, the convict will kill her. The convict is said to have killed someone prior to this case but was discharged by the court due to lack of evidence. The community is not ready to receive him, albeit he is 80 years old.

In my view, the Applicant deserves prison sentence to be kept away from society due to his extreme violent character, despite his advanced age. He will be an unnecessary burden to the community with his violent stunts if he is released to serve a non-custodial sentence. Furthermore, he appealed vide Siaya HCCRA 50/2015 whose outcome is unknown.

The victim sustained very serious injuries as a result of the merciless assault and is still fearful of the convict. I am not persuaded that the Applicant deserves revision of sentence.

I dismiss the Application for revision. The convict to secure his full prison sentence as meted out by the trial court.

**Dated, Signed and Delivered at SIAYA this 31<sup>ST</sup> DAY OF JULY 2018.**

**R.E. ABURILI**

**JUDGE**