

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

CRIMINAL REVISION NO. 84 OF 2018

(From original sentence in Criminal Case No. 559 of 2015 in Principal Magistrate's Court at Maseno passed by Hon. R.S. Kipng'eno(SRM) on 15.1.18)

DANIEL OMONDI OKELLO.....APPLICANT

V E R S U S

REPUBLIC.....RESPONDENT

RULING

1. The applicant was on 15.1.18 fined Kshs. 30,000/- or an imprisonment term of 1 year in default thereof for the offence attempted arson contrary to section 333(b) of the Penal Code.
2. This revision is brought by way of the a letter dated 11.5.18 by Officer in charge Kisumu Medium Prison who states that the applicant has been bleeding from his month since the date of his committal to the institution as a result of which the institution is incurring a huge medical bill. Attached to the letter is a medical reports dated 25.1.18, 7.5.18 and 8.5.18 confirming the applicant's condition.
3. The powers of the High court in revision cases are contained in Section 362 through to 366 of the Criminal Procedure Code (cap.75). Section 362 specifically provides as follows:-

“362. The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court”.

4. I have perused the record of the Lower court. It has not been demonstrated that there is any irregularity, illegality, incorrectness or impropriety of the *proceedings, finding, sentence or order passed by the subordinate court to warrant a revision.*
5. The foregoing notwithstanding, I have considered the applicant's medical condition and I hereby substitute the fine of Kshs. 30,000/- or an imprisonment term of 1 year in default thereof with sentence for the period served. Unless otherwise lawfully held, the applicant shall forthwith be set at liberty. It is so ordered.

DATED AND DELIVERED THIS 25th DAY OF September, 2018

T. W. CHERERE

JUDGE

Read in open court in the presence of-

Court Assistant - Felix

Applicant -N/A

For the State -Muia