



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO.103 OF 2018**

**(From original sentence in Criminal Case No. 20 of 2015 in Principal Magistrate's Court at Maseno passed by Hon. R.S. Kipng'eno (SRM) on 11.5.17)**

**ISACK OBURU GUMBA.....APPLICANT**

**V E R S U S**

**REPUBLIC.....RESPONDENT**

**RULING**

1. The applicant was on 11.5.17 sentenced to serve 4 years imprisonment for the offence of breaking into a building and committing a felony contrary to section 306(a) of the Penal Code.
2. This revision is brought by way of the applicant's application filed on 16.7.18 in which he seeks review of his sentence on the ground that he had been in custody for about 2 years before he was sentenced.
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”.***

3. What the High Court can do under its revision jurisdiction is stated under section 364 of the Criminal Procedure Code Cap 75, which states as follows:-

***“364.(1) in the case of a proceeding in a subordinate court the record of which has been called for or which has been reported for orders, or which otherwise comes to its knowledge, the High court may -***

***(a) .....***

***(b) in the case of any other order than an order of acquittal, alter or reverse the order.***

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. Consequently, the application for revision is considered and found to have no merit and it is disallowed. *The applicant is at liberty to appeal if he is dissatisfied with the decision of the trial court.* 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