



**REPUBLIC OF KENYA**

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

**CRIMINAL DIVISION**

**CRIMINAL REVISION NO. 123 OF 2018**

**KENNEDY MUKHONGO.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. I have considered the application. I have also perused the original record of proceedings. The Applicant was convicted for offence of obtaining money by false pretences. The amount in question was the sum of Kshs. 221,249/=. He also faced two other counts of making a false document contrary to **Section 357(a)** of the **Penal code** and uttering a false document contrary to Section 353 of the Penal Code.

2. The sentence imposed in my view of a fine of Kshs. 1000,000/= in default serve 12 months imprisonment in respect of each of the counts was very reasonable, more so, taking into account that count II is a felony.

3. All the same, a punishment is intended to correct an accused. I have regard that he is not a first offender, as he too has admitted. However, for the period of 18 months served in custody, it is hoped he has learnt a lesson and this being his second time to be in conflict with the law, he shall not be caught up in the crime again.

4. On humanitarian grounds alone, I allow the application. I set aside the remainder of the sentence. I substitute it with an order that the Applicant has served sufficient sentence. I order him set free unless he is otherwise lawfully held.

**Dated and Delivered at Nairobi this 30<sup>th</sup> day of October, 2018.**

**G.W. NGENYE-MACHARIA**

**JUDGE**

**In the presence of:**

*1. Applicant present in person*

*2. M/s Akunja for the Respondent.*