

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REV. NO. 876 OF 2018

GEOFREY MWANGI MUWIRI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Applicant was charged with driving a defective motor vehicle. He was fined Kshs. 100,000/= in default serve six months imprisonment. Although **Section 58(1) of the Traffic Act** provides Kshs. 400,000/= in default three years imprisonment, the penalty imposed was excessive as the Applicant was a first offender. The court also failed to look into the nature of the defects. Although driving with a defective speedometer is a grave mistake, the Applicant was merely a servant of the owner. The other defect which is driving a motor vehicle with torn seats could not be attributed to him. All the same, he should be responsible for any offence charged as he could have avoided driving the vehicle altogether.

Since he is remorseful, I will consider that the period of one month and three days spent in custody is sufficient punishment. I set aside the balance of the penalty. I order that he be forthwith set free unless otherwise lawfully held. It is so ordered.

DATED and DELIVERED this 27th day of November, 2018

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

1. Applicant present in person

2. Atina for the Respondent