

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT CHUKA

CRIMINAL REVISION NO.118 OF 2018

JULIUS MUTWIRI ZAKARIA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

1. The applicant (**JULIUS MUTWIRI ZAKARIA**) was charged with the offence of being in possession of papers resembling Kenyan Currency contrary to **Section 359** of the **Penal Code**. The particulars of the offence were that on 13th May, 2016 at Chogoria Location within Tharaka Nithi County the applicant was found in possession of 912 forged Kenya Currency notes in denominations of 1,000 shillings knowing them to be forged. He denied the charge but after trial, he was found guilty and convicted to serve 4 years imprisonment.

2. The applicant has now moved this court for revision of his sentence under sections **362** and **364** of the **Criminal Procedure Code** citing the following reasons namely;

(i) That he is a sole bread winner in his family.

(ii) That he desires this court to review the sentence and hand him a non custodial sentence

3. This court has called for the lower court file and I have perused through the proceedings with a view to satisfying myself on the question of correctness, legality and propriety of the proceedings, the conviction and the sentence imposed. This court is vested with revisionary powers to look into the proceedings and the findings of a lower court under **Section 362** of the **Criminal Procedure Code** and find out if the charge/offence committed is known in law and whether the finding of the court is legal. This court is also empowered to look at whether the trial's court discretion was exercised judiciously upon considering the nature of gravity of the offence and the mitigating circumstances.

4. In this application, I have not found anything to suggest that the sentence imposed was too harsh, illegal, incorrect or improper. The sentence imposed under **Section 359** of the **Penal Code** is upto 7 years imprisonment and the trial court imposed a sentence of 4 years upon exercising its discretion under **section 26(2)** of **Penal Code**. This court finds that the sentence imposed is quite commensurate with the offence for which the applicant was charged and convicted. The gravity and the economic consequences of circulating fake currency in the economy of a country are dire and must be discouraged and hence the deterrent sentence imposed by law.

In the premises the application dated 17th May 2018 lacks in merit the same is disallowed as the sentence imposed on the applicant was fair and lawful. The same is upheld.

Dated, signed and delivered at Chuka this 27th day of November, 2018.

R.K. LIMO

JUDGE

27/11/2018

Ruling dated, signed and delivered in the presence of Applicant in person and Machirah for Respondent.

R.K. LIMO

JUDGE

27/11/2018