



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO. 2 OF 2018**

**(FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL CASE NO. 690 OF 2017 OF THE CHIEF MAGISTRATE'S COURT AT CHUKA)**

**KENNETH MWENDA NJAGI..... APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. **KENNETH MWENDA NJAGI**, the applicant herein was charged and convicted upon trial with the offence of grievous harm.

The particulars of the offence as per the charge sheet were that on 18<sup>th</sup> December 2015 at Kaanwa Market Karingani Location within Tharaka Nithi County, the applicant caused grievous harm to Harrison Mureithi. The applicant was found guilty after trial, convicted and sentenced to a fine of Kshs.50,000/- or 5 years imprisonment.

2. The applicant has now moved this court through a Notice of Motion undated filed on 29<sup>th</sup> January, 2018 for review of his sentence on grounds that he is a sole bread winner and that the conditions in prison are not good for his health.

3. This court has gone through the lower court file in order to satisfy itself of the correctness, legality, regularity and propriety of the proceedings and sentence meted out against the applicant. This court has noted that the victim of the offence for which the applicant was charged really suffered a serious injury following a bite of the applicant who bit off distal part of the fifth finger leaving the finger deformed. The medical expert who examined the victim classified the injury as grievous and rightly so. The offence of grievous harm under **Section 234** of the **Penal Code** attracts a maximum penalty of life imprisonment. The trial court exercised its discretion and gave the applicant a lenient sentence of **Kshs.50,000** or 5 years imprisonment perhaps after taking into consideration mitigating circumstances.

4. This court finds that the proceedings and the sentence meted out though lenient was legal regular and correct in the circumstances. I find no merit to interfere with the same.

In the premises the undated application for revision of sentence is unmerited. The same is disallowed and the applicant is advised to serve his sentence, reform and possibly seek for forgiveness and reconciliation with the victim upon finishing his sentence.

**Dated, signed and delivered at Chuka this 17<sup>th</sup> day of December, 2018.**

**R.K. LIMO**

**JUDGE**

**17/12/2018**