



**REPUBLIC OF KENYA**

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

**CRIMINAL DIVISION**

**CRIMINAL REVISION NO. 42 OF 2017**

**BONFACE KARUMBA KAMAU.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

I have considered the request for revision of the sentence, save for counts III and IV, the rest of the counts carry heavy penalties.

In count I in which the Applicant was charged with causing obstruction, he was liable on a 1<sup>st</sup> conviction to a fine not exceeding Kshs. 50,000/= in default serve one year imprisonment and on a subsequent conviction to a fine not exceeding Kshs. 75,000/= or to imprisonment not exceeding 18 months including cancellation of the driving licence. He was sentenced to a fine of Kshs. 15,000/- in default serve 3 months imprisonment which in view of the penalty provided for was reasonable.

In count II and V, the Applicant was charged with dangerous overtaking and failing to exhibit recent photograph of the driver. The penalty for both offences are, for a 1<sup>st</sup> offender a fine not exceeding Kshs. 100,000/= or to imprisonment of not more than 12 months. In my view, these are petty offences which do not call for such heavy penalties. The trial court fined the Applicant Kshs. 7,000/= and Kshs. 5,000/= respectively. I think that the fine imposed in count V was excessive having regard to the offence.

In count III and IV, the Applicant was charged with failing to wear public service vehicle uniform and failing to wear public service badge respectively. He was sentenced to a fine of Kshs. 10,000/= in default serve 2 months imprisonment in respect of each of the account. Again, having regard to the offences, I think that the fines imposed were excessive.

In view of my observations, I will revise the sentences and substitute them with the following orders:

- a. I discharge the Applicant unconditionally under Section 35(1) of the Penal Code in respect of counts III, IV and V.
- b. In counts I and II, he shall pay a fine of Kshs. 10,000 and 5,000/= in default serve 2 months imprisonment respectively. If he fails to pay the fine, sentences will run consecutively.
- c. In making my findings, I have given regard to the fact that the Applicant is a first offender. It is so ordered.

**DATED and DELIVERED this 27<sup>th</sup> day of MARCH, 2017.**

**G.W. NGENYE-MACHARIA**

**JUDGE**

**In the presence of:**

1. *Applicant present in person*

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