

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MALINDI

CRIMINAL REVISION CASE NO.48 OF 2016

REPUBLIC.....APPELLANT

-VERSUS-

HAMOUND RASHID AZZAN &

MUHAMED MASHAN AHMED.....RESPONDENTS

REVISION

The accused were charged with the offence subsistence hunting contrary to section 97 of the Wildlife Conservation and Management Act number 47 of 2013. They pleaded guilty to the charge. The trial court convicted the accused on their own plea of guilty and sentenced them to each pay a fine of ksh.15,000/= in default to serve six (6) months imprisonment.

The prosecution was not satisfied with the sentence. It filed the current Revision indicating that the minimum sentence under section 97 of the Act is a fine of ksh.30,000/= or six (6) months imprisonment. The prosecution's position is that the sentence is unlawful.

Section 97 of the Wildlife Conservation and Management Act 2013 provides as follows;-

“A person who engages in hunting for the purposes of subsistence commits an offence and shall be liable on conviction to a fine of not less than thirty thousand (or an imprisonment for a term of not less than six months or both such fine and imprisonment”.

According to the above section, the fine should not be less than kshs.30,000/=. That is the minimum. In my view that sentence is not excessive. I do agree with the prosecution that the correct sentence was a fine of kshs.30,000/= or six (6) months imprisonment in default.

I do hereby set aside the sentence imposed by the trial court and replace it with a fine of kshs.30,000/= each in default six (6) months imprisonment.

SAID CHITEMBWE

JUDGE

Dated, signed and delivered at Malindi this 20th day of September, 2017

WILDON KORIR

JUDGE