

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
(CRIMINAL DIVISION)

CRIMINAL REVISION NUMBER 3 OF 2016

RepublicProsecutor

VERSUS

Charles Waweru Mathenge.....Accused

RULING

This is a revision pursuant to the provisions of Section 362 of the Criminal Procedure Code.^[1] The power of the High Court under Section 362 of the Criminal Procedure Code^[2] is for the High Court to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of the proceedings.

The accused was convicted on his own plea of guilty of the offence of exposing himself and members of the public to an infectious disease (Tuberculosis) contrary to Section 28 (a) of the Public Health Act^[3] and was sentenced to serve one year imprisonment and the case was to be mentioned every two months to keep track of his progress.

On 1st February 2016, the court received a letter from the Nyeri Sub-County Public Health Officer confirming that the period for treatment for TB has been reduced to only 6 months and that the accused has been treated and his office confirmed that he has fully recovered from TB. The accused wrote to this court on 25th January 2016 asking for a revision of the said sentence.

The reason why the accused was committed to prison was to *inter alia* facilitate the treatment and monitor his progress. From the aforesaid letter, it is evident that the treatment has been successful, hence there is no basis for his continued detention and that he is no longer a threat to himself and others.

I have also considered the sentence imposed and the remaining period of his sentence and I find that there is no justifiable basis to continue holding the accused in prison. Accordingly, I reduce the said sentence to the period already served. Consequently I order that the accused be released immediately unless otherwise lawfully held.

Orders accordingly

Dated at Nyeri this 25th day of February 2016.

John M. Mativo

Judge

^[1]Cap 75, Laws of Kenya

[2] Ibid

[3] Cap 242, Laws of Kenya