



**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**REVISION NO. 42 OF 2015**

**FRANCIS MAINA NJOROGE.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**REVISION ORDER**

The High Court has been requested by way of a letter dated 19/1/2015 to review the orders of Hon. Kelly, Resident Magistrate, made on 19/1/2015. On that date the trial court fined the Investigating Officer Kshs.5,000/- in default one (1) month in prison.

I have carefully perused the proceedings. I find that the Investigating Officer gave a valid and reasonable explanation of how he came to take over the police file from PC Odada on 23/12/2014. The warrant of arrest was issued as against PC Odada and not PC Odhiambo. The said PC Odada is said to have left to attend a course in Kiganjo. The Investigating Officer was in court with the file and exhibits ready for facts to be taken. There cannot be said to have been any contempt on his part.

Judicial discretion must be exercised judiciously not capriciously. I therefore review the orders of the trial court. I set aside the fine of Kshs.5,000/- imposed on the Investigating Officer as the same was not warranted at all.

**MAUREEN A. ODERO**

**JUDGE**

**19/1/2015**