



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL REVISION NO. 76 OF 2015

(From the Original Conviction and Sentence in Criminal Case No. 416 of 2012 of Senior Resident Magistrate's Court at Shanzu – Hon. Ombura - SRM)

ALI MZEE ALI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Applicant Mzee Ali Mzee was jointly charged with one Anwar Ibrahim for the offence of obtaining by false pretences contrary to section 313 of the Penal Code.

The particulars being that :-

“On the 12th day of December, 2012 at Mtwapa-Kilifi County, with intent to defraud obtained from Eva Wanjiru Wachira the sum of Ksh. 300,000/= by falsely pretending that they were selling a motor vehicle to the said Eva Wanjiru Wachira a fact which was not true”.

It is contended that the applicant jumped bail and was later Sentenced to six (6)months imprisonment. Thereafter he was remanded in custody till the hearing and determination of the case. He now wishes the order dated 17th June, 2014 to be revised.

The powers of revision are provided for under section 362 of the Criminal Procedure Code thus:-

“The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of any such subordinate Court.”

The applicant was duly granted bond. He abused that facility by absconding and for which he was punished. He claims to have reformed while in prison.

I find nothing irregular and or illegal in the orders granted by the trial magistrate. The applicant did not adhere to the conditions of bond. There is no proper evidence that he will adhere if now released on bond.

The application has no merit and is rejected.

The original file to be released back to the trial magistrate as it has a hearing date for 1st September, 2015.

Ruling delivered, dated and signed this **24th** day of **August, 2015**.

.....

M. MUYA

JUDGE

24TH AUGUST, 2015

In open Court in the presence of:-

Prosecution Mr. Jami

Counsel for the applicant Mr. Kisa

M. MUYA - JUDGE