



**REPUBLIC OF KENYA**

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

**CRIMINAL DIVISION**

**CRIMINAL REVISION APPLICATION NO. 222 OF 2015**

MAHMUD DAAHIR GOULED.....APPLICANT

VERSUS

REPUBLIC..... RESPONDENT

*(Revision against sentence by Hon. Daniel Ogembo (C.M) in Criminal Case No. 1545 of 2015 at the Chief Magistrate's Court at Milimani, Nairobi on 15<sup>th</sup> September, 2015)*

**RULING**

I have considered the request for revision of the sentence imposed on the Applicant. He states that the same is harsh in the circumstances. He also states that he wishes to seek medical attention out of custody.

He was charged with 8 counts of being in possession of passports which he could not reasonably give a proper account of their possession contrary to Section 54(1) (d) of the Kenya Citizenship and Immigration Act, 2011. He faced a 9<sup>th</sup> charge of smuggling or reasonably suspected to be smuggling a human being contrary to Section 54 (1)(p) as read with Section 53(2) of the Kenya Citizenship and Immigration Act, 2011. He pleaded not guilty to the 9<sup>th</sup> count. For courts I to VIII, he was convicted on his own plea of guilty and sentenced to pay a fine of Kshs. 200,000/=, in default to serve one year imprisonment in respect of each of the counts. Sentences were to run consecutively.

The file is forwarded to this court under Section 362 of the Criminal Procedure Code so that this court can satisfy itself as to correctness, legality, propriety or regularity of the sentence.

Under Section 54(2) of the Kenya Citizenship and Immigration Act, 2011, any person charged under Section 54(1)(d) of the Act shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

The Applicant herein was only fined Kshs. 200,000/= for each count against a possible fine of Kshs. 5,000,000/=. That to me was an extremely lenient sentence given the circumstances. I am not seized with any good reason why this court should vary the same. The Applicant can be accessed medical treatment while in custody.

In the premises, the application is dismissed.

**DATED and SIGNED** this 23<sup>rd</sup> day of **November, 2015.**

**G. W. NGENYE – MACHARIA**

**JUDGE**