

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NYERI

CRIMINAL REVISION CASE NO. 81 OF 2013

EDWARD KIMITI MUNGAI.....APPLICANT

versus

REPUBLIC.....RESPONDENT

REVISION

1. By an application under certificate of urgency received on 23rd September 2013 the applicant moved this court for an order that his sentence be substituted with a non custodial sentence under CSO on the basis that he is an old man aged 65 years and the only family bread winner.

2. In his supporting affidavit the applicant deponed that he was sentenced to three years on 30th October 2012 and that he is an old man aged 70 years with the family he left behind undergoing untold suffering.

3. The applicant was charged with the offence of forgery contrary to section 348 of the Penal Code the particulars of which were that on unknown date and place within the Republic of Kenya, jointly with others not before the court forged certain documents namely title deed LR No. RUIRU/BLOCK/2642 Githunguri purporting to be a genuine document issued to Joshua Wanjama Kimani by the Lands Registrar Kiambu.

4. He was convicted of the offence and in sentencing him to three years the trial magistrate had this to say.

***“The offence committed are serious the complainants money amounting to Ksh. 1,050,000/- has since not been recovered nd the seriousness of the offences call for deterrent punishment which punishment will serve as a lesson not only to the accused person but to the other would be offenders.*”**

5. I have further noted that the applicant should have been charged under section 350(1) of the Penal Code which carries imprisonment for life since the document forged was a title deed which is a documents of title to land and therefore find that the applicant was given a very lenient sentence in the circumstances and therefore decline to interfeerer with the same the age of the applicant notwithstanding.

Dated and delivered at Nyeri this 31st day of July 2014.

J. WAKIAGA

JUDGE