

REPUBLIC OF KENYA

IN THE HIGH COURT

AT MALINDI

CRIMINAL DIVISION

CRIMINAL REVISION NO. 13 OF 2014

*(From original conviction and sentence in Assault Causing Actual Bodily Harm and Malicious
Damage to Property case No. 730 of 2012 of the Chief Magistrate's Court at Malindi)*

MWENDA LUGWE.....APPLICANT

VERSUS

STATE.....PROSECUTOR

RULING ON REVISION

1. This file was placed before me on account of a letter by counsel who was not representing the accused at the trial. I have perused the record of the Lower Court. The accused was convicted on the two counts of assault and malicious damage which occurred in the same transaction. He was said to be a first offender.
2. Although the accused's conduct was violent and unwarranted, he was remorseful in his mitigation address and there are no aggravating factors militating against him being given an option of a fine.
3. In view of the foregoing, and exercising the powers granted under Section 364 of the Criminal Procedure Code, I would set aside the custodial sentence imposed by the Lower Court on 21st July, 2014. I substitute therefor an order that the accused shall pay a fine of shs. 5,000/- or in default serve three months imprisonment on each of the two counts upon which he was convicted.

Delivered and signed at Malindi this 31st day of **July, 2014**

C. W. Meoli

JUDGE