



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
CRIMINAL REVIEW NO. 14 OF 2014

REPUBLIC.....RESPONDENT

VERSUS

SAMUEL IRERI NDWIGA.....ACCUSED/APPLICANT

R U L I N G

The applicant was convicted 6th December, 2013 by Embu Ag. Principal Magistrate of the offence of being in possession of narcotic drugs and psychotropic substances contrary to Section 3(1) of the Narcotic Drugs and Psychotropic Substances Act (act No.4 of 1994). He was sentenced to serve 24 months imprisonment. It was alleged in the charge that on 30th October 2013 at Kamviu village in Embu County, the applicant was found being in possession of 46 rolls of bhang in contravention with the Act.

The applicant pleaded guilty to the charge and the prosecutor read the facts to the court, produced the exhibit and the Government analyst report. The applicant admitted the facts and was convicted on his own plea of guilty and sentenced to serve a sentence of six months imprisonment.

In his application for revision the applicant pleads to this court to reduce his sentence based on the grounds that he has now acquired skills in prison in the field of carpentry which he wishes to utilize when he regains his freedom. He also prays for non-custodial sentence as an alternative.

This application is brought under Section 362 and 364 of the Criminal Procedure Code which law explains the purpose of revision as follows:-

Section 362

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 to the regularity of any proceedings of any such subordinate court.

The section confers powers to this court to review or alter any order in pursuance with Section 364 of the Act in respect of where the subordinate court has committed any wrong, illegally or impropriety. I have perused the proceedings of the Ag. Senior Principal Magistrate and find no incorrectness, illegality or irregularity in passing the sentence.

Section 3(1) provides for twenty (20) years imprisonment or a fine of Kshs.1,000,000/= or three times the market value of the narcotic drug or psychotropic substance whichever is greater or to imprisonment for life or to both such fine and imprisonment.

The maximum sentence being life imprisonment, the applicant was given a very lenient sentence. Even if this application was within the provisions of Section 362 which I have stated it is not, there would be no justification to review the sentence considering that it was lawful and very lenient.

I therefore find the application lacking merit and decline to grant the orders sought.

DELIVERED, SIGNED AND DATED AT EMBU THIS 17TH DAY OF DECEMBER, 2014.

F. MUCHEMI

JUDGE

In the presence of:-

The Applicant

Mr. Onjoro for Respondent

F. MUCHEMI

JUDGE