



**REPUBLIC OF KENYA**

**High Court at Mombasa**

**Criminal Revision 62 of 2013**

**PATRICK MICHENI REUBEN ..... APPLICANT**

**- Versus -**

**REPUBLIC ..... RESPONDENT**

**JUDGMENT**

The Appellant/Applicant was sentenced to 4 months imprisonment for the offence of obtaining by false pretence contrary to Section 313 of the Penal Code.

The particulars are that on diverse dates between the month of June and August 2012 at Mtwapa Township Kilifi County with intent to defraud obtained Kshs. 100,000/- from Mrs Kimathi K. Florence by falsely pretending that he would accommodate 144 pupils and 20 staff members of Chogoria Boarding Primary School at Bridge View Hotel Mtwapa, a fact he knew to be false. It is noted that the Accused had been treated as a first offender.

The matter arose out of a contract which was apparently breached because of one reason or other. There was an agreement between the Accused and Chogoria Primary Boarding School representative that he offer them accommodation at his Hotel Bridge View Mtwapa. He later offered them accommodation at a school called Sajahanad. Meanwhile he had received Kshs. 100,000/- which he refused to refund. It's apparent that this was a Civil matter which could have been resolved without involving the Criminal process. It is noted that the Accused has already served a couple of weeks in prison custody.

Pursuant to Section 364 of the Criminal Procedure Code I substitute the sentence of 4 months without an option of fine to that of a fine of Kshs. 50,000/- in default 4 months imprisonment. The sentence is revised to that extent only.

**Judgment read and delivered in open Court this 29<sup>th</sup> day of April, 2013.**

**M. MUYA  
JUDGE**

**In the presence of:-**

**Mr. Wanjala holding brief for Mr. Kadima for Applicant**

**Court clerk – Mr. Musundi**