

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL REVISION NO. 70 OF 2013

MOHAMMED NAKUTHAAPPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

The Applicant **MOHAMED NAKUTHA** by a letter dated the 24th day of June, 2013 sought the review of a Conviction and a Sentence of a fine of Ksh. 100,000/= in default one year imprisonment on each of the three Counts he was charged with.

The Conviction and Sentence was on 31st day of May, 2013.

His grounds are that he did not understand Swahili language and further that he is a registered Somali refugee seeking asylum at Kakuma Refugee Camp.

I did call for the original file and upon perusal noted that the Applicant was charged with the offence of being unlawfully present in Kenya contrary to section 13(2) (c) of the Immigration Act Cap 172 Laws of Kenya.

The Immigration Act was repealed by the Kenya Citizenship and Immigration Act 2011 which came into commencement on 30th August, 2011.

This Act repealed the Kenya Citizenship Act, the Immigration Act and the Aliens restriction Act.

The Applicant was therefore charged Convicted and Sentenced under the wrong law. I accordingly reverse the Conviction and Sentence and acquit the Applicant. He is set at liberty unless otherwise lawfully held.

Ruling dated and delivered in open Court this **28th** day of **August, 2013**.

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M. MUYA

JUDGE

28TH AUGUST, 2013

In the presence of:-

Counsel for the State Mr. Tanui

The Applicant