



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**REVISION CASE NO. 19 OF 2013**

**REPUBLIC .....PROSECUTION**

**VERSUS**

**MUTUKU MWATHA..... ACCUSED**

**CONFIRMATION ORDER**

1. This file has been placed before me by the Deputy Registrar, **Ms Rose Makungu** for purposes of satisfying myself with the legality of proceedings and confirmation of the order made by the Lower Court.
2. Acting pursuant to the provisions of Section 167(1) (a) of the Criminal Procedure Act, it is apparent that the case emanates from a retrial conducted by Hon. **H.M. Ng'ang'a**, Resident Magistrate. The lower court was of the opinion that evidence adduced would justify a conviction.
3. I have perused the proceedings and judgement thereof. Per the report filed by the Psychiatrist, **Dr Munga Edgar**, the accused suffers from a condition characterised by a sub-normal level of intelligence and the inability to adequately take care of himself. The condition though not treatable could be managed to ensure he is a useful member of the society. He opined that the accused was not able to follow proceedings.
4. I have also carefully considered the evidence adduced in favour of the prosecution's case which was overwhelming.
5. Being significantly below average, mental functioning is not being insane. I am therefore satisfied that the Lower Court was justified in reaching a conclusion to have the accused detained at the President's pleasure. Consequently, I do confirm the orders made.
6. The accused's actual place of detention shall be determined by the President pursuant to Section 167(2) of the Criminal Procedure Code.
7. It is so ordered.

**DATED, SIGNED and DELIVERED at MACHAKOS this 23<sup>RD</sup> day of OCTOBER, 2013.**

**L.N. MUTENDE**

**JUDGE**