



**REPUBLIC OF KENYA**

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

**REVISION NO. 177 OF 2013**

*(Being A Revision in the Conviction and Sentence on 09.09.2013 by the Honourable V. Karanja Acting Senior Resident Magistrate at Bomet in Criminal Case No. 844 of 2013)*

**GILBERT CHERUIYOT.....APPLICANT**

**-VERSUS-**

**REPUBLIC.....RESPONDENT**

**(Before Hon. Justice Byram Ongaya on Friday 18th October, 2013)**

**RULING ON REVISION**

This is the ruling in an application for revision under **Sections 362 and 364** of the **Criminal Procedure Code, Chapter 75** of the **Laws of Kenya**, and under Section 8(2) of the Community Service Orders Act, 1998. The applicant is Gilbert Cheruiyot who was charged with the offence of being in possession of alcoholic drinks without a licence contrary to Section 27(1) (2) as read with Section 34 (a) of the Alcoholic Drinks Control Act No. 4 of 2010 of Laws of Kenya in Criminal case No. 844 of 2013 in the Acting Senior Resident Magistrate's Court at Bomet.

The applicant pleaded guilty as charged and the learned trial magistrate on 09.09.2013 convicted and sentenced him to a fine of Kshs. 10, 000.00 and in default to serve three months imprisonment. The applicant has been unable to pay the fine and therefore is serving the term in prison as sentenced.

The probation officer has filed a report in view of the application for revision now before this court. The report indicates that the applicant is serving at the farm and he is keen to engage in positive and lawful means of livelihood. The report states that the applicant can serve the community at the chief's office in Kapsimbiri sub-location.

The court has considered the report by the probation officer and the gravity of the offence. The applicant was found in possession of five litres of Kangara, an alcoholic drink, with intention of going to sell it. The court has considered that the applicant is keen to engage in lawful employment and is welcome for assistance by his family. It is the view of the court that he should be encouraged to engage in lawful income generating activities.

In conclusion, the sentence by the honourable trial court is altered and substituted with the order for the applicant to serve the community at the Chief's office in Kapsimbiri sub-location under the assistant chief for 20 days from the date of this ruling.

**Signed, dated and delivered in court at Kericho this Friday, 18th October, 2013.**

**BYRAM ONGAYA**

**JUDGE**

