



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO. 198 OF 2011**

**REUBEN ANZETSE NANDWA.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING ON REVISION**

The Applicant, **REUBEN ANZETSE NANDWA** was charged with the offence of grievous harm contrary to **Section 234** of the Penal Code.

The particulars of the offence are that on the 18th day of February, 2010 at Shibale market, Nucleus Sub-location, Nabongo Location in Mumias District within Western Province, jointly with another not before court, unlawfully did grievous harm to **SAMMY BIRGEN**.

The Applicant pleaded not guilty. After a full trial, the applicant was found guilty, convicted and sentenced to serve two (2) years imprisonment.

In a letter dated 30.3.11 addressed to the Deputy Registrar, the applicant applied for “sentence revision on medical grounds.”

I have perused the record of the lower court. I am satisfied as to the correctness, legality and propriety of the finding arrived at by the trial magistrate. I am also satisfied as to the regularity of the proceedings.

The applicant has annexed medical records for the year 2010. The conviction and sentence before the lower court is dated 24.2.11. The applicant was afforded an opportunity to present his mitigation by the trial magistrate which he did.

Under Section 364 (5) of the C.P.C., “when an appeal lies from a finding, a sentence or order, and no appeal is brought, no proceeding by way of revision shall be entertained as the insistence of the party who could have appealed.”

Consequently, the application is dismissed.

***Dated this 8<sup>th</sup> day of March, 2012***

**B. THURANIRA JADEN**

**J U D G E**