



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**Criminal Revision 331 of 2010**

**S.K.M.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

The attention of this court has been brought to the conviction and sentence of the Applicant S.K.M who was a child of 16 years at the time of his conviction. Section 191(1) of the Children Act (No. 8 of 2001) describes the penalties to which a child of the age of 16 may be subject to. The said section provides that -

*“(1) In spite of the provisions of any other law and subject to this Act, where a child is tried for an offence, and the court is satisfied as to his guilt, the court may deal with the case in one or more of the following ways –*

*(a) By discharging the offender under section 35(1) of the Penal Code;*

By sentencing the Applicant to 3 months or a fine of Kshs 5,000/= in default the court breached the said provisions of the Children Act.

In exercise therefore of the powers conferred upon this court by section 363(1) (b) I reverse the said sentence and direct that the subject be discharged under the provisions of section 35(1) of the Penal Code subject to good behavior for the next six months.

Dated, signed and delivered at Nakuru this 29<sup>th</sup> day of April 2010

**M. J. ANYARA EMUKULE**

**JUDGE**