

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

Criminal Revision 13 of 2009

REPUBLIC.....PROSECUTOR

VERSUS

VERONICA MARIAACCUSED

ORDER ON REVISION

Pursuant to the provisions of Section 363 of the Criminal Procedure Code, Mrs. Mwangi, learned Chief Magistrate, Mombasa, placed this file before the High Court for perusal. In exercise of this court's supervisory jurisdiction of revision under S.362 of the Criminal Procedure Code, I proceeded to examine the aforesaid record.

The court record indicates that Veronica Maria, hereinafter referred to as the applicant was arraigned before the Chief Magistrate's Court to face a charge of lodging breaking and stealing contrary to Section 306(A) of the Penal Code. The applicant pleaded not guilty to the charge. She applied to be released on bond. The learned Chief Magistrate called for the probation officer's report before determining the bail application. The probation report was filed in court. There was a recommendation that the applicant should not be admitted to bail.

The learned Chief Magistrate read the report and proceeded to sentence the applicant to pay a fine of Kshs.7,000/- in default to serve 4 months imprisonment. After a careful consideration of the proceedings, it is obvious that the learned Chief Magistrate fell into error. The sentence had no basis because there was no conviction in the first place. It is an error which can be interfered with by an on order of revision.

I hereby set aside the order of sentence and direct the file to be placed before Mrs. Mwangi, the learned Chief Magistrate to consider the bail/bond application.

Dated and delivered at Mombasa this 8th day of June 2009.

J. K. SERGON

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