

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAKURU

Criminal Revision 90 of 2006

ERICK KADICH SUDI APPELLANT

VERSUS

REPUBLIC RESPONDENT

[From Original Conviction and Sentence in Criminal Case No. 2666 of 2006 of the Chief Magistrate's Court at Nakuru – J. Thuita – S.P.M]

JUDGMENT ON REVISION

This matter was referred to the High Court for revision pursuant to the provisions of Section 362 of the Criminal Procedure Code. It is indicated that the applicant was a subject, he was born on 1st April 1989 and therefore he was not tried as per the provisions of the Children's Act. The subject was convicted on his own plea of guilty and sentenced to twelve (12) months imprisonment on 9th November 2006. The subject was charged with the offence of house breaking contrary to **Section 304 (1)** and **stealing contrary to Section 279 (b)** of the **Penal Code**.

In view of the age of the subject, who has not yet attained the age of majority, I hereby set aside the conviction and quash the sentence of twelve (12) months imprisonment. However, due to the seriousness of the offence that the subject is charged with, it is important that this matter be referred for a retrial before the Children's Court. The subject should appear before the Children's court as soon as possible for retrial.

It is so ordered.

Judgment read and signed on 4th December 2006

MARTHA KOOME

JUDGE