



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MOMBASA  
CRIMINAL REVISION CASE NO. 19 OF 2000

REPUBLIC ..... PROSECUTOR  
- VERSUS -  
JOSEPH NGIGI KAMAU ..... ACCUSED

R U L I N G

The matter came before me by way of Revision and although the request for revision was done 16th August, 2000, the file was not brought to me until the 17th May, 2002.

The Applicant Joseph Ngugi Kamau was charged in Criminal Case No. 4288 of 1998 together with another with 3 counts. On count 1, they were charged with attempted Robbery with violence contrary to Section 297 of the Penal Code, on count II with unlawful possession of Firearm Contrary to Section 4(1) (a) of the Firearm Act and on Count III with unlawful possession of Ammunition contrary to Section 4(2) (a) of the Firearm Act.

The trial terminated after the state entered a nolie Prosequi. They were however re-arrested and charged in Criminal Case No.2931/99 which never took off and after a period of one year and some months the trial Court acquitted the applicant herein under Section 210 of the Criminal Procedure Code. At the time, the Court commented that it would have done so sooner but for this Review which was pending.

I have looked at the records of both trials and I agree with the trial Magistrate L. Achode that this is a clear case of abuse of office by the police. They were bend on having the Applicant tried for dubious offences at any cost.

In view of the trial Court's finding in Criminal Case No.2831/98, the need for Review is overtaken in any case, this to my mind was not a proper case for a review.

Dated at Mombasa this 28th day of May, 2002.

**P.M. TUTUI**  
**COMMISSIONER OF ASSIZE**