

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL REVISION 18 OF 02

REPUBLIC.....APPLICANT

VERSUS

JOHN MWAURA AND 4 OTHERS.....RESPONDENT

RULING

The subjects herein were acquitted by the learned trial magistrate under section 210 of The Criminal Procedure Code for want of prosecution. Thereafter the Attorney General wrote to complain about the order of the learned trial magistrate and asked for the setting aside of the said order and proceedings be re-commenced. Whether or not the section invoked by the learned trial magistrate was correct, the order made was that of an acquittal. In all respects, it was a judgment and, with respect, if the Attorney General was aggrieved by the said order, he should have appealed. The foregoing being the case, no proceedings by way of revision can be entertained by virtue of section 364(5) of the Criminal Procedure Code. The more to have the order reviewed is misplaced and therefore declined. The application for review is therefore dismissed.

MBOGHOLI MSAGHA

JUDGE

7/11/2002