



**Karakacha v Republic (Criminal Revision 109 of 2024)
[2024] KEHC 3844 (KLR) (16 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3844 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 109 OF 2024
DR KAVEDZA, J
APRIL 16, 2024**

BETWEEN

RICHARD ODWALI KARAKACHA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. I have gone through the file and noted that the applicant was convicted on his own plea of guilty for the offense of being in possession of alcoholic drinks that do not conform to prescribed standards of distillation and packing contrary to section 27(1)(b) as read with section 27 (4) of the [Alcoholic Drinks Control Act](#). He was sentenced on 05/03/2024 to pay a fine of Kshs. 500,000/= and in default to serve one year imprisonment.
2. The power of this court to exercise its revisionary jurisdiction is founded under Section 362 of the [Criminal Procedure Code](#) (Cap 75) Laws of Kenya which provides that:

The High Court may call for and examine the record of any criminal proceedings before any subordinate court to satisfy itself as to the correctness, legality, or propriety of any finding, sentence, or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.
3. Regarding the sentence imposed in this case, it is my view that the trial magistrate’s sentencing was within the law. I have not found any illegality or irregularity in the proceedings or sentence meted therein.
4. Even so, I do note that there are mitigating factors that can affect the sentence. From the record, the applicant pleaded guilty to the charges and saved the court’s time. Additionally, he is a first offender and therefore deserved some leniency during sentencing.



5. In view of the foregoing, the sentence of paying a fine of Kshs. 500,000/= is hereby set aside and substituted with a fine of Kshs. 100,000/=, in default to serve 12 months imprisonment, effective from the date of arrest, 03/03/2024.

Orders accordingly.

Ruling delivered this day 16th day of April 2024.

D. KAVEDZA

JUDGE

