



REPUBLIC OF KENYA



**Mutheu v Republic (Criminal Revision E106 of 2024)
[2024] KEHC 9562 (KLR) (11 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9562 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL REVISION E106 OF 2024**

**GMA DULU, J
JULY 11, 2024**

BETWEEN

QUEEN MUTHEU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This is a request for review of the sentence in Voi CM Criminal case no E061 of 2024, filed on 5th June 2024 through a letter signed by the applicant/convict Queen Mutheu who is currently in prison at Wundanyi Prison. No Section of the law was cited in the letter.
2. I note that the applicant or convict was convicted on her own plea for selling liquor without a County Government licence contrary to Section 7(1) as read with Section 53(1) of the Taita Taveta County Alcoholic Drinks Control and Licensing Act 2016.
3. On pleading guilty in Voi CM Criminal Case no E061 of 2024, she was fined ksh 100,000/= and in default to serve twelve (12) months imprisonment, on 3rd April 2024.
4. The convict has now come to this court seeking review of the sentence, the main ground or reason being that she has a young child of five (5) years who needed her presence and attention.
5. The request for revision of sentence herein was canvassed through written submissions, and I have perused and considered the submissions filed by the applicant as well as the submissions filed by the Director of Public Prosecutions.
6. I note that in their submissions, the Director of Public Prosecutions has relied on Section 364 of the [Criminal Procedure Code](#) (Cap.75) relating to the revision powers of this court on decisions, orders or judgment delivered by a Magistrate court. The Director of Public Prosecutions has informed this



court that the applicant being only an employee as far as commission of the offence was concerned, the sentence imposed was harsh and excessive, as the employer was not charged.

7. Having myself reconsidered the whole matter, and since it is not in dispute that the applicant was a mere employee, and the main culprit should have been her employer, I find that the sentence imposed herein was inappropriate, harsh and excessive.
8. I thus review the sentence imposed. Since the convict has been in prison from April, I order that the sentence be and is hereby reduced to the period already served in prison. The applicant or convict Queen Mutheu will thus be released forthwith from prison custody unless otherwise lawfully held.

DATED, SIGNED AND DELIVERED THIS 11TH DAY OF JULY 2024 IN OPEN COURT AT VOI.

GEORGE DULU

JUDGE

In the presence of:-

Alfred – Court Assistant

Mr. Sirima for State

Applicant (virtual)

