



**Republic v Mwinyi (Criminal Revision E020 of 2023)
[2023] KEHC 17250 (KLR) (8 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17250 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
CRIMINAL REVISION E020 OF 2023**

SM GITHINJI, J

MAY 8, 2023

BETWEEN

REPUBLIC PROSECUTION

AND

HASSAN MWINYI RESPONDENT

*(From Original Conviction and Sentence in Criminal
Case No. E596 of 2022 of the Magistrate’s Court at Kilif)*

RULING

Coram: Hon Justice S.M Githinji

1. This is a matter for review under section 362 of the *Criminal Procedure Code* cap 75 Laws of Kenya. The file is availed to me for the said purpose by the SPM, Kilifi Law Courts, Hon J.M.Kituku. The procedure of 26/10/2022 shows that trial court that convicted the accused and sentenced him on his own plea of guilty did not call upon him to plead to the facts. The well laid down procedure of taking plea, in the celebrated case of *Adan v Republic* (1973) EA 446, was not followed and such the convict was prejudiced.

I therefore find merit in the prayer for review.

2. Hassan Mwinyi conviction and sentence are quashed. He should be presented before another magistrate for fresh plea taking. In case he pleads guilty or is eventually found guilty, the period served in custody in respect of conviction herein be weighed in sentencing.

Mention before SPM Kilifi Law Courts on May 15, 2023.

DATED, SIGNED AND DELIVERED AT MALINDI THIS 8TH DAY OF MAY, 2022

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S.M. GITHINJI
JUDGE

