

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL DIVISION

CRIMINAL REVISION NO. 36 OF 2019

VICTOR MWANGOMBE.....APPLICANT

VERSUS

COUNTY GOVERNMENT OF MOMBASA.....RESPONDENT

R U L I N G

1. The Applicant Victor Mwangombe vide a letter dated 16/12/2019 written by his advocates M/S Wambo Muyala & Co. Advocates sought that the court calls for Mombasa CMC CR. No. 1623/2018 for purposes of revising the orders made on 22/11/2019 convicting the applicant for the offence of developing a structure without obtaining development permission contrary to Section 30(1) and 38 as read with Section 30(2) of the Physical Planning Act Cap 286 Law of Kenya.

2. The application for revision was made on account that the conviction and sentence against the applicant/accused was not legal and same was irregular since the accused person was wrongly charged as he was not the developer and does not draw income from the developed house.

3. The applicant served the County Government the Respondent herein and the DPP record of 30/7/2020 but there was no response from them even after the DPP was given 21 days to respond. The applicant and her advocate didn't attend court on 4/11/2020 and 14/12/2020 and the court decided to fix the application for ruling.

4. I have perused the trial court file no. 1623 of 2018 and found that the applicant wanted the court to revise the judgment of the trial Magistrate that he was guilty of the charge against him. He also send the sentence was illegal. There is nothing on the face of the record to point to illegality impropriety or incorrectness of the judgement of the trial court as envisaged under Section 364 of the Criminal Procedure Code.

5. There is no error apparent on the face of the record that would call for the revision of the judgment of the trial court in which applicant was found guilty after going through lawful trial.

6. The application is therefore dismissed as it lacks merit.

Dated, signed and delivered at Mombasa this 11th day of February, 2021.

HON. LADY JUSTICE A. ONG'INJO

JUDGE