

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL REVISION NO. 7 OF 2020

ANITA IRIMA NJERU.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant herein was charged with the offence of causing grievous harm contrary to Section 234 of the Penal Code and on the 9th day of January, 2020, she was convicted and sentenced to serve four (4) years imprisonment.
2. She has now moved this court seeking review of the said sentence under Section 362 and 364 of the Criminal Procedure Code.
3. The application was disposed off by way of written submissions.
4. In her submissions, she averred that she feels she is qualified to serve the remaining part of the sentence under Community Service Order and that as a first offender, she is entitled to the benefit of the law as stipulated in **Article 27(1)(2) and 50(2)(b) of the Constitution**; that the court should take into consideration that he has always been remorseful; that she has engaged in rehabilitative programs while in prison and she has urged the court to take into account the time spent in custody under Section 333(2) of the Criminal Procedure Code.
5. On her part, counsel for the respondent opposed the application for the reason that the applicant was charged with a serious offence and that the sentence imposed by the trial court is lenient. Counsel also urged the court to take into account that the applicant burned her own daughter.
6. The court has considered the application and the submissions filed by the applicant and the oral submissions made by counsel for the respondent. The applicant has moved the court by way of review. The remedy of revision is provided for in Sections 362 - 364 of the Criminal Procedure Code. **Section 362** thereof states: -

“The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying 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”.

7. From the foregoing position, it is clear the circumstances under which the High court can review a sentence passed by the subordinate court. In the case before the court, the applicant has not alleged that the sentence was illegal, incorrect or improper so as to warrant a review by this Honourable Court.
8. As rightly submitted by counsel for the respondent, the applicant herein was charged with a serious offence that calls for up to a life sentence but the trial court imposed a four-year sentence which, in my view, was very lenient. As pointed out by the trial magistrate, the applicant burned her own daughter yet she is the one expected to nature and protect the child.
9. In passing the sentence, the trial court considered the mitigation put forth by the applicant
10. In the circumstances, I find that the application has no merit and it is dismissed.

DELIVERED, DATED AND SIGNED AT EMBU THIS 9TH DAY OF JUNE, 2021.

L. NJUGUNA

JUDGE

.....for the Petitioner

.....for the Respondent