



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NANYUKI**

**CRIMINAL REVISION NO.51 OF 2020**

**ISAAC NJERU.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Revision of the Original Sentence dated 27.01.2020 in Nanyuki Criminal Case No.40 of 2020– L. Mutai, CM)*

**08.04.2020**

Before Justice H P G Waweru

In Chambers

**ORDER ON REVISION**

1. I have examined the trial court record.
2. The convict herein, ISAAC NJERU, was on 27.01.2020, sentenced to a fine of Kshs.50,000= and in default to serve one (1) year imprisonment on each of two offences of assault causing actual bodily harm contrary to Section 251 of the Penal Code.
3. The default sentences are obviously illegal in view of the provisions of Section 28(2) of the Penal Code. For a fine not exceeding Kshs.50,000= the default sentence should not exceed six (6) months imprisonment.
4. In the Circumstances, I will set aside the default sentence of one (1) year imprisonment in each count and substitute therefor six (6) months imprisonment. That means that the convict should serve a cumulative sentence of twelve (12) months imprisonment as default sentences must be served consecutively, not concurrently. See the proviso to Section 37 of the **Penal Code. It is so ordered.**

**DATED AT NANYUKI THIS 8<sup>TH</sup> DAY OF APRIL, 2020**

**H.P.G. WAWERU**

**JUDGE.**

**DEPUTY REGISTRAR**

**NANYUKI HIGH COURT**