



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO.56 OF 2020**

**SAMWEL GITUMA.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Revision of the Original Sentence dated 25.7.2019 in Nanyuki Criminal Case No.1395 of 2018– 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, SAMWEL GITUMA, was on 25.07.2019 fined Kshs.80,000= and in default to serve 1 ½ years imprisonment for the offence of attempted vandalism contrary to Section 64(4)(b) of the Energy Act, No.12 of 2006 as read with Section 389 of the penal Code. He did not pay the fine.

3. The default sentence is illegal in view of the provisions of Section 28(2) of the Penal Code for a fine exceeding Kshs.50,000= the default sentence should not exceed twelve (12) months imprisonment.

4. In the circumstances, I will set aside the default sentence of 1 ½ years imprisonment and substitute therefor twelve (12) months imprisonment. To that limited extent only shall I interfere with the sentence. 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**