



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NANYUKI**

**CRIMINAL REVISION NO.28 OF 2020**

**SOSPHERTER KANGI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

(Revision of the Original Sentence dated 14.08.19 in Nanyuki Criminal Case No.993 of 2019 – L. Mutai, CM)

**08.04.2020**

Before Justice H P G Waweru

In Chambers

**ORDER ON REVISION**

1. I have examined the record of the trial court.
2. The convict herein, SOSPHERTER KANGI, was on 14.08.19 fined Kshs.10,000= and in default to serve ten (10) months on each of two offences of Malicious Damage to Property contrary to Section 339(1) and Stealing contrary to Section 268(1) and 275 all of the Penal Code. He did not pay the fines.
3. The default sentences are obviously illegal in view of the provisions of Section 28(2) of the Penal Code. The default sentence for a fine of Kshs.10,000= should not be more than three (3) months imprisonment.
4. In the circumstances, I hereby set aside the default sentence of ten (1) Months imprisonment on each count and substitute therefore three (3) months imprisonment – a cumulative six (6) months imprisonment as default sentences must be served cumulatively.
5. As the convict has already served the cumulative sentence of six (6) months imprisonment, he shall be set at liberty forthwith unless otherwise lawfully held. 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**