



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NANYUKI

CRIMINAL REVISION NO.122 OF 2020

(From Original Conviction and Sentence in Nanyuki Criminal Case No.770 of 2020)

ELIJAH GITHAIGA MUGO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

14/07/2020

Coram: Before Waweru, J

(In chambers)

ORDER IN REVISION

1. Upon application by the convict, **ELIJAH GITHAIGA MUGO**, I have called for and examined the record of the trial court in respect to the sentence.
2. The convict pleaded guilty to the offence of creating a disturbance in a manner likely to cause a breach of the peace **C/S 95(1)(b)** of the Penal code and was duly convicted. The particulars of the offence were the he had threatened to harm his own mother, **JOYCE NYAWIRA MUGO**, with stones and a rungu.
3. On 06/07/2020 the convict was sentenced to five(5) months imprisonment.
4. I note from the trial court record that the convict's mother (the complainant) wrote to the court on 08/07/2020 saying that she had forgiven her son and that she wished to withdraw the complaint. It was too late of course as the convict had already pleaded guilty, been convicted and sentenced. The mother stated in her letter that she had decided to forgive him because "...he has a family who need his support particularly (during) this Covid -19 pandemic."
5. In his own letter seeking revision the convict has stated that he has a wife and three(3) children, all who depend on him. He pleads for a non-custodial sentence.
6. I have considered the convict's and his mother's plea. First of all I must point out that the sentence meted out by the trial court is lawful.
7. Purely because of the public health need to decongest our prisons during this Coronavirus (COVID-19) pandemic, I will set aside the sentence of five (5) months imprisonment meted out by the trial court and substitute therefore a fine of Kshs.5,000/00, and in default of payment to serve three (3) months imprisonment with effect from 06/07/2020. It is so ordered.
8. To that limited extent only is the sentence interfered with.

GIVEN under my hand and seal of this Honourable Court this 14th day of July 2020

H.P.G. WAWERU

JUDGE.

ISSUED at NANYUKI this 14th day of July 2020.

DEPUTY REGISTRAR

NANYUKI HIGH COURT