



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO. 31 OF 2019**

**PATRICK NGUTIA .....APPLICANT**

**VERSUS**

**REPUBLIC.....DIRECTOR OF PUBLIC PROSECUTIONS**

**JUDGMENT**

1.The applicant had been charged in Kakamega CMCCRC No. 1989 of 2019 with transporting *chang'aa* without a licence contrary to section 7(1) (b), as read with section 62, of the Alcoholic Drinks Act, No. 4 of 2010, Laws of Kenya. He pleaded guilty to the charge and was sentenced to pay a fine of Kshs. 1, 000.00 and, in default of paying the fine, to serve thirty (30) days in prison. The motorcycle, which had ferried the *chang'aa*, registration mark and number KMEN 187B, was to be forfeited to the National Authority for the Campaign against Alcohol and Drug Abuse (NACADA).

2. The application that I am called upon to determine is the Motion dated 16<sup>th</sup> August 2019. The applicant was the accused person in Kakamega CMCCRC No. 1989 of 2019. He would like a revision on the forfeiture order with respect to the motorcycle, on grounds that it was not his but belonged to another, Auto Industries Limited, who was not given a chance to contest the forfeiture.

3. When the Motion came up for *inter partes* hearing on 28<sup>th</sup> October 2019, the state did not object to the revision. Ms. Omondi stated that there was no objection, the applicant was not the owner of the subject motorcycle and that the same could be released to the rightful owner.

4. In view of that, I shall revise the forfeiture order to the extent of directing that motorcycle registration mark and number KMEN 187B be released to its owner, Auto Industries Limited. It is so ordered.

**DELIVERED DATED AND SIGNED AT KAKAMEGA THIS 11<sup>TH</sup> DAY OF DECEMBER, 2019**

**W MUSYOKA**

**JUDGE**