

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO.82 OF 2016

BYRNE CATHALAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Appellant, Byrne Cathal was convicted of two (2) counts of **obtaining goods by false pretences** contrary to **Section 313** of the **Penal Code**. The particulars of the two charges were that on 15th May 2012 and 22nd May 2012, the Appellant obtained goods worth Kshs.3,970,200/- from Violet Akoth Oganda by falsely pretending that he was in a position to purchase the said goods, a fact the Appellant knew to be false. The Appellant pleaded guilty to the charges. He was convicted on his own plea of guilty. He was ordered to pay compensation to the complainant the said sum of Kshs.3,970,200/-. He was further ordered to pay a fine of Kshs.50,000/- or in default he was to serve one (1) year imprisonment. The Appellant was aggrieved by the order of compensation. He was of the view that the court should not have made the order of compensation in view of the fact that he did not have the money to pay the compensation. He made an application before this court for the revision of the sentence.

This court considered this application at the same time with a similar appeal that the Appellant had filed in **Nairobi High Court Criminal Appeal No.120 of 2016 Bryne Cathal –vs- Republic**. The reasons in that decision shall similarly apply in this application. The Appellant’s application for revision of the sentence is hereby dismissed save that the compensation that the Appellant shall pay to the complainant shall be Kshs.1 million. It is so ordered.

DATED AT NAIROBI THIS 15TH DAY OF JUNE 2017

L. KIMARU

JUDGE