



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**REVISION NO. 37 OF 2016**

**ANN WANGECHI ..... APPLICANT**

**VERSUS**

**REPUBLIC ..... PROSECUTOR**

***(Appeal from the Sentence of the Principal Magistrate's Court at Eldama Ravine, Hon. R. Yator – Senior Resident Magistrate delivered on the 22<sup>nd</sup> June, 2016 in CR Case No. 480 of 2016)***

**RULING**

This matter has come before the courts for revision. The applicant **Ann Wangechi** on 22/6/2016 pleaded guilty on two accounts of contravening the Alcoholic Drinks Act before the Senior Resident Magistrate at Eldama Ravine Courts. The learned trial magistrate convicted the applicant on both counts and proceeded to fine her Ks 50,000/= in default six (6) months imprisonment on each count.

I have perused the proceedings before the lower court. I find that the principles of plea taking as set out in the case of **ADAN Vs REPUBLIC [1973] EA 445** were not adhered to in that the facts were not read out to the applicant by the prosecutor. Thus the applicant did not have an opportunity to confirm the correctness of the facts before she was convicted. Further the exhibits were not produced or identified in court.

For the above reasons I find that her conviction was improper as plea was not properly taken.

In exercise of this court's powers of review I quash the applicant's conviction and set aside the sentences imposed on both counts. The applicant is to be set at liberty forthwith unless she is otherwise lawfully held. It is so ordered.

Dated in Nakuru this 2<sup>nd</sup> day of September, 2016.

**Maureen Odera**

**Judge**