



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT VOI**

**CRIMINAL REVISION NO. 162 OF 2016**

**ZECH LENNART DEUTSH.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**(From original conviction and sentence in Criminal Case No. 847 of 2016 by Hon E.G Nderitu,  
Senior Principal Magistrate on 17<sup>th</sup> October 2016)**

**RULING ON REVISION**

1. The court has carefully listened to the submissions by both the Applicant's and the State counsels and notes that the Applicant was a first offender. He was found with a smoked roll of bhang and he was convicted on his own plea of guilty. He was thus sentenced to four (4) months imprisonment with no option of a fine. He was convicted and sentenced to prison on 17<sup>th</sup> October 2016 and has since served about fourteen (14) days imprisonment.

2. The counsel for the state has conceded to the Revision filed by M/S Obara & Obara Advocates on 25<sup>th</sup> October 2016 on the ground that the Applicant was not a peddler of drugs but that he was merely smoking a roll of bhang and that the court should temper justice with mercy.

3. Smoking of bhang is an offence under the Kenyan Laws and is punishable. It is for this reason that I am not inclined to let the Applicant go scot free. He must bear some responsibility for contravening the law. He could not purport that he did not know the difference between smoking a cigarette and smoking bhang as he contended during his mitigation before the Trial Court.

4. However, as he was not a peddler and was found with a smoked roll of bhang, tempering justice with mercy as was implored by the counsels for the State and the Applicant, I hereby set aside the four (4) months imprisonment and replace it with a fine of Kshs. 20,000/-. This is within the parameters of the amount of fine that I can impose as provided for in Section 28(2) of the Penal Code Cap 63 (Laws of Kenya). In default of the payment of the fine of Kshs. 20,000/- herein, the Applicant shall serve the sentence of four (4) months imprisonment.

5. It is so ordered.

**DATED and DELIVERED at VOI this 1<sup>st</sup> day of November 2016**

**J. KAMAU**

**JUDGE**

In the presence of:-

Obara.....Applicant

Miss Anyumba.....for State

Ruth Kituva- Court Clerk