



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO. 6 OF 2015**

**NANCY TORONGEL.....APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

***(Arising from Bomet Resident Magistrate's Court***

***Criminal Case No. 120 of 2015)***

**R U L I N G**

This file was called for after my visit to the Women's Prison Kericho on 26<sup>th</sup> March, 2015.

The applicant pleaded guilty to a charge of being in possession of an alcoholic drink namely Kangara, a substance used in distilling chang'aa.

**Section 2** which defines what an alcoholic drink is, has no mention of Kangara or any substance used in distilling chang'aa or any alcoholic drink.

There is no offence under the **Alcoholic Drinks Control Act** known as being in possession of substances used in distilling an alcoholic drink.

The particulars in the charge sheet contradict the charge and the applicant should not have been allowed to plead to it.

The conviction is quashed and sentence set aside. The applicant to be released forthwith unless lawfully held under a separate warrant.

**Dated and signed this 10<sup>th</sup> day of April, 2015**

**H.I. ONG'UDI**

**JUDGE**