



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL REVISION NO. 165 OF 2015

(From the original Conviction and Sentence in Criminal Case No. 2005 of 2015 of the Chief Magistrate's Court at Mombasa – **Hon. Shitubi – CM**).

FEISAL MOHAMED SABURIAPPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

This revision was brought by way of a letter dated 30th July, 2015.

The Accused in criminal case No. 2005 of 2015 was Convicted and Sentenced to two (2) years imprisonment for the offence of being in possession of narcotic drugs contrary to section 3(1) as read with section 2(a) of the Narcotic Drugs and Psychotropic substances Control Act No. 4 of 1994.

The grounds for the review are that the Accused was Sentenced to two (2) years imprisonment without being afforded the option of a fine. He was a first offender. He had admitted the offence and was remorseful.

The Accused person was Convicted in respect of the offence of possession of drugs contrary to section 3(1) as read with section 3(a) of the Act.

The penalty prescribed for possession in respect of Cannabis Sativa which is meant for consumption is a maximum of ten (10) years.

The Accused was Sentenced to two (2) years imprisonment. That Sentence cannot be said to be harsh and excessive.

Section 356 of the Criminal Procedure Code provides,

“The High Court may call for and examine the record of any Criminal proceedings before any subordinate Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, Sentence or order recorded or passed and as to the regularity of any proceedings of any such subordinate Court”.

In the instant case there is no illegality, impropriety and incorrectness in the Sentence passed by the trial magistrate.

I find no good ground to interfere with both the Conviction and Sentence. Application is disallowed.

Ruling delivered, dated and signed this **5th** day of **October, 2015**.

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M. MUYA

JUDGE

5TH OCTOBER, 2015

In open Court and in the presence of:-

Learned Counsel for the prosecution Mr. Masila

Learned Counsel for the Applicant Mr. Were

Court Assistant Mr. Musundi