

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CRIMINAL REVISION NO. 3 OF 2014

REPUBLIC

VERSUS

AUGUSTUS MUNYALO APPLICANT

RULING ON REVISION

1. By a letter dated 18/10/13 the Applicant, **Augustus Munyao**, moved this court for an order of revision under **section 362 and 364** of the **Criminal Procedure Code**.
2. The Appellant, **Augustus Munyalo** was charged with the offence of **obtaining money by false pretences contrary to section 313** of the **Penal Code**.

The particulars of the offence were that on the 11th day of April 2013 at **Kitui bus stage** in **Kitui County** with intent to defraud obtained Kshs.2,000/= from **Mercy Watene** by falsely pretending that he was in a position to secure her a job at **Kitui Governor’s office** as a receptionist a fact he knew to be false.

3. When the Applicant was arraigned in court, he pleaded not guilty and was released on Kshs.10,000/= cash bail on the same date. The case is now pending the hearing of the defence case. The Applicant elected to give sworn evidence and to call a witness.
4. **Matata Advocate** came on the record for the Applicant on the date set for the defence case on 15/10/13 and applied for typed copies of the judgment. The Application was allowed and the case fixed for defence hearing on 4/2/14. On 4/2/14, **Matata Advocate** did not appear before the trial court and the Applicant applied for adjournment. The same was allowed and the case fixed for hearing on 10/4/2014.
5. Under **Section 362** of the **Criminal Procedure Code**:-

“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.”

6. I have examined and considered the lower court record and I am satisfied as to the regularity of the proceedings. The application has no merit and is dismissed.

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B. THURANIRA JADEN

JUDGE

Dated and delivered at Machakos this 17th day of March 2014.

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B. THURANIRA JADEN

JUDGE