



**REPUBLIC OF KENYA**

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

**CRIMINAL REVISION NO. 36 OF 2014**

PRISCUS DONASIANI MBETAI .....APPLICANT

VERSUS

RESPONDENT .....REPUBLIC

*(From original conviction and sentence in criminal case Number 638 of 2014 in the Chief Magistrate's court at Milimani, Nairobi – P.M. Mugure (RM) on 2<sup>nd</sup> February, 2014)*

**RULING**

The applicant was charged with 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 particulars were that on 30<sup>th</sup> April, 2014 at 10 a.m. at Milimani Law Courts Nairobi he was found in possession of 18 rolls of Narcotic drugs namely cannabis with a streets value of Kshs. 180/= in contravention of the said Act.

The record before me shows that he pleaded guilty to the charge and admitted the facts read out by the prosecutor. In his mitigation he said he does not sell drugs and asked for leniency. He was a first offender.

The learned trial magistrate observed that the offence was serious and very rampant within the jurisdiction of this court and to her surprise, even within the court precincts. This therefore called for a deterrent sentence although he was a first offender.

I observe that the applicant must have known that possession of drugs is a crime, and must have been very daring to be within the court premises the fountain of justice with such drugs. I note however, just like the learned trial magistrate, he was a first offender and his plea that he was not involved in selling the drug was not disputed. I also note that the value of the drug placed at Kshs. 180/= was negligible. In my view, this is a person who deserves a second chance.

From the date of his conviction he has served two and half months imprisonment. I consider this sufficient punishment. Accordingly, I reduce the sentence to the period already served such that the appellant shall be released forthwith unless otherwise lawfully held.

Orders accordingly.

**SIGNED DATED and DELIVERED in court this 17<sup>th</sup> day of July, 2014.**

**A.MBOGHOLI MSAGHA**

**JUDGE**