

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CRIMINAL REVISION CASE NO. 14 OF 2013

PHILIP MANG'OKA MUKULAAPPLICANT

VERSUS

REPUBLIC

CRIMINAL REVISION

1. In his letter dated 16th May, 2013, **Phillip Mang'oka Mukula** has called upon this court to exercise its supervisory and revisionary jurisdiction by satisfying itself as to the correctness, legality or propriety of the finding, sentence or order made by the Kilungu Magistrate's Court in Criminal Case No. 221 of 2008. He also seeks to have the regularity of proceedings conducted by the court looked into.
2. The author of the aforesaid letter whom I shall refer to as "*the applicant*" was charged in the Senior Resident Magistrate's Court, Kilungu Criminal Case No. 221 of 2008 with the offence of assault causing actual bodily harm contrary to section 251 of the Penal Code. He was tried, convicted and sentenced by the Hon H. Nyakweba, Principal Magistrate. He therefore made the application pursuant to the provisions of section 362 of the Criminal Procedure Code.
3. The application was based on the following grounds;-
 - i. **That** the charge sheet as drawn was fatally defective.
 - ii. **That** no blood stained clothes were produced as proof of assault in view of the injuries allegedly inflicted.
 - iii. **That** the evidence on record was generally inefficient to sustain a conviction on a charge of assault.
 - iv. **That** the trial court failed to appreciate the charge as a mere fabrication resulting from a grudge.
4. Section 362 of the Criminal Procedure Code empowers this court to satisfy itself of the correctness, legality and propriety of any findings or sentence passed.
5. I have perused the lower court record. The applicant having pleaded not guilty to the charge was tried in accordance with the procedure laid down in statute. The court evaluated the evidence on record and reached a finding. It gave reasons for the decision reached. The sentence imposed, a fine of Kshs. 20,000/= or six (6) months imprisonment was within the law.
6. Issues raised by the applicant in his letter should have formed a basis of appeal. What is apparent is the fact that the applicant having been convicted, sentenced and paid the fine was dissatisfied with the decision of the lower court. He ought to have appealed against the conviction and sentence.
7. The upshot of the above is that this court has absolutely no reason to interfere with the findings of the lower court. I therefore decline to grant orders sought.

DATED, SIGNED and DELIVERED at MACHAKOS this 9TH day of JULY 2013.

L.N. MUTENDE

JUDGE