



**REPUBLIC OF KENYA**

**High Court at Eldoret**

**Criminal Revision 3784 of 2011**

**REPUBLIC.....PROSECUTION**

**VERSUS**

**KENNEDY KIPLETING.....ACCUSED**

**RULING ON REVISION.**

This case has been referred to this court by the subordinate court that it may exercise its revisionary powers as provided for under the Criminal Procedure Code and the Constitution of Kenya 2010.

The facts of the case are that the accused was charged with the offence of theft of farm produce contrary to Section 8(1) as read with Section 8(3) of the Stock and Produce Act (Cap 355 Laws of Kenya)

The Accused was convicted on his own plea of guilty and sentenced to serve Community Service at Kibabet Primary School for a period of two (2) months.

Before the Accused commenced the Community Service Order he was charged with the offence of aiding a prisoner, one **SIMON KEMBOI RONO**, to escape from lawful custody contrary to Section 124 (a) of the Penal Code.

The Accused was convicted and sentenced to serve one (1) year imprisonment

This court has had the occasion to peruse CMCR Case No. 4515 of 2011. The record shows that the Accused allowed the said convict to attend court on his behalf on three (3) separate occasions and that he had committed these acts knowingly.

The magistrate who forwarded this case to the High Court for revision had indicated on the record that there was an error apparent on the record and that the Accused had been wrongfully imprisoned for the offence of aiding a prisoner to escape.

After perusal of the court file, this court finds that the Accused person was properly charged, and the conviction and sentence was not improper or irregular.

From the record it is apparent that the Accused person has completed his sentence of one (1) year and from information received from the prison authorities, is that, the Accused person is still in custody awaiting an order from court as to whether he should now commence to serve the community service order.

The court finds that this is a suitable case for revision and finds that the Accused has been sufficiently punished.

The community service sentence is hereby set aside and the Accused be set at liberty, forthwith unless otherwise lawfully held.

It is so ordered.

Dated and delivered at Eldoret this 8<sup>th</sup> day of October 2012.

**A.MSHILA  
JUDGE**