

3. The Applicant entered a plea of **'Not Guilty'** to all the charges and the case was heard in the Lower Court. Vide a judgment delivered on **24th March 2025**. **Hon. G. KIRUGUMI Principal Magistrate** convicted the Applicant on Counts 1 and 2.
4. Following mitigation the applicant was given an opportunity to mitigate after which he was sentenced to serve **four (4) years** imprisonment on Count No. 1 and **one (1) year** imprisonment on **Count No. 2**.
5. The Applicant has now filed this application seeking a review of his sentence. The **ODPP** opposes this application for review on grounds that the sentences imposed were appropriate given that the Applicant was a repeat offender.
6. The Power of the High Court to review sentences is set out in **Section 362** of the **Penal Code, Cap 63 Laws of Kenya** which provides as follows:-

“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 in any such subordinate court.”

7. The orders which the High Court may make upon revision are provided by **Section 364** of the **Penal Code**.
8. I have carefully perused the record of the proceedings in the Lower Court. I am satisfied that the Applicants trial was properly conducted and the Applicant was accorded all his rights to a fair trial including the right to cross-examine the prosecution witnesses.
9. Following his conviction the Applicant was accorded an opportunity to mitigate. The trial court did call for a pre-sentence Report which report was filed in court on **23rd April 2025**.
10. I carefully perused the said pre-sentence report and noted that the same was not favourable.
11. The sentences imposed by the trial court were lawful and were not in any way excessive. Finally I find no merit in this application for review of sentence. The same is dismissed in its entirety.

Dated in Nyeri this 13th day of February 2026.

.....
MAUREEN A. ODERO
JUDGE

ORIGINAL