**Republic v Kiambu Dandora Farmers Ltd and another**

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 15 January 1974

**Case Number:** 46/1973 (23/74)

**Before:** Trevelyan and Kneller JJ

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*[1] Criminal Practice and Procedure – Charge – Failure to file annual return – Not laid within twelve months – Whether charge maintainable – Criminal Procedure Code, s.* 219 (*K.*), *Companies Act* (*Cap.*

486), *ss.* 127, 395 (*K.*).

**Editor’s Summary**

The respondents were accused of failing to file an annual return within 42 days of the general meeting of the first respondent company for 1970. The magistrate refused to convict on the ground that the charge had not been brought within one year of the alleged offence, the offence being one the maximum punishment for which did not exceed a fine of Shs. 1,000/-. The section provides for a default fine, which is defined in another section as a maximum of Shs. 100/- a day for the period of the default. On revision.

**Held –**

(i) no maximum punishment is provided for the offence of failing to file an annual return;

( ii) accordingly no charge under the section need be brought within a year.

Application allowed.

**Case referred to Judgment:**

(1) *R. v. Tyler*, [1891] 2 Q.B. 588.

**[Editorial note:** The reference to an offence the maximum punishment for which does not exceed a

fine of Shs. 1,000/- in s. 219 of the Criminal Procedure Code must refer to the offence charged and not to

any general or generic offence. If therefore the offence as charged carries a default penalty which does