



**Saiya v Republic (Criminal Revision E436 of 2024)
[2024] KEHC 16377 (KLR) (23 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16377 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E436 OF 2024
RN NYAKUNDI, J
DECEMBER 23, 2024**

BETWEEN

MOSES SAIYA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of stealing contrary to section 268 as read with section 275 of the *Penal code*. The particulars of the offence are that on 31st August, 2024 at Ngasha area, Langas sub location within Kapseret sub county in Uasin Gishu county stole a cart valued at Kshs. 30,000/= the property of John Mwangi.
2. The applicant pleaded guilty to the offence and as a consequence he was sentenced to 3 months' imprisonment.
3. The applicant has approached this court pursuant to sections 357,362,364& 382 of the *Criminal Procedure Code* as construed with Article 50(2) (p) & (q) as conjunctively read with Article 50(6)(a) & (b) of the *Constitution*.
4. The applicant seeks a sentence review.
5. Upon thorough examination of the totality of circumstances and the core principles of sentencing, I am convinced that the period already served in custody adequately meets the punitive and deterrent objectives in this matter. The applicant's short stint of incarceration has addressed the gravity of this misdemeanor offense. Extending the custodial term would not serve any additional significant purpose nor benefit society.
6. Having weighed the totality of circumstances and the fundamental objectives of sentencing, I am persuaded that a non-custodial sentence would be more appropriate in this case. Accordingly, I direct



that the applicant serves a non-custodial sentence for the remaining period under the supervision of a probation officer. During this period, the probation officer shall facilitate victim-offender mediation and address any underlying issues to prevent recidivism. It is imperative to note that any reoffending during this period shall automatically terminate the probation order, whereupon this court shall exercise its discretion to resentence the applicant to serve the full term of imprisonment.

SIGNED, DATE AND DELIVERED AT ELDORET ' THIS 23RD DAY OF DECEMBER 2024.

R. NYAKUNDI

JUDGE

Representation:-

Mark Mugun for the state

