

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NANYUKI

CRIMINAL APPEAL NO 43 OF 2020

SAMUEL KAGUMBA MAINA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence in Nanyuki CM Criminal Case No 208 of 2020 – L Mutai, CM)

J U D G M E N T

1. The Appellant herein, **SAMUEL KAGUMBA MAINA**, was convicted upon his own plea of ***breaking into a building and stealing from therein*** contrary to **sections 304(1) and 279(b)** of the ***Penal Code***. It was alleged that on 21/01/2020 at Likii area in Laikipia East Sub-County within Laikipia County, he broke and entered a bar named in the particulars, and from therein stole various items listed, all worth a total of KShs 295,700/00, the property of one PENINAH KIHONGE.
2. On 24/02/2020 the Appellant was sentenced to 4½ years imprisonment on each limb of the offence, sentences to run concurrently. He has appealed only against the sentence.
3. I have considered the Appellant's submissions as well as those of the learned counsel for the Respondent. The Appellant was a first offender who pleaded guilty. He was, however, a former security guard at the premises who utilized his knowledge of the place to break into the premises and steal therefrom.
4. It is also to be noted that the two limbs of the offence carried, respectively, maximum punishments of imprisonment for 10 years and 14 years. The Appellant got only 4½ years imprisonment on each limb, to run concurrently. Another thing, only a portion of the stolen items were recovered.
5. Upon considering all matters placed before the court, I respectively agree with learned counsel that the sentence is not manifestly harsh or excessive, and was in fact richly deserved. There is no merit in this appeal against sentence. It is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 28TH DAY OF JULY 2021

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 29TH DAY OF JULY 2021