



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NYAHURURU**

**CRIMINAL APPEAL NO. 117 OF 2017**

**(FORMERLY HCRA. NAKURU 128 OF 2016)**

**PETER ABONG ATIKU.....APPLICANT**

**-VERSUS-**

**REPUBLIC.....RESPONDENT**

**J U D G M E N T**

The appellant **Peter Abong Atiku** was convicted for the offence of **Robbery with Violence contrary to Section 296 (2) of the Penal Code** by Hon. Wanjala CM on 02/12/2018.

The particulars of the charge are that on 26/06/2014 at Munyu Village in Laikipia County, jointly with another not before the court, while armed with crude weapons namely metal rod and panga, robbed Benjamin Mwangi Gichuru of a mobile phone, ITEL in value worth Kshs.4,000/-, National Identity Card and Kshs.50,000/- and immediately before the time of the said robbery, beat the said Benjamin Mwangi Gichuru.

Upon conviction, the appellant was sentenced to serve ten years imprisonment.

The appellant filed this appeal challenging both the conviction and sentence. However, at the hearing of the appeal, he abandoned the appeal on conviction and opted to proceed with the appeal on sentence alone. He pleaded with the court to reduce the sentence.

Learned Counsel for the State, Ms. Rugut, opposed the appeal for reasons that the sentence is very lenient considering that the victim of the robbery was maimed and the court should not interfere.

Upon conviction for the offence of Robbery with Violence under **Section 296 (2) of the Penal Code**, one is liable to be sentenced to death being the maximum sentence. However, the court has a discretion to render whatever sentence it thinks suitable considering the circumstances of the case. In this case, the complainant suffered very serious injuries during the attack, that is a maim. In my considered view, the trial court handed the appellant a very lenient sentence. Had the prosecution applied to have it enhanced, this court would not have hesitated to do so. There are totally no grounds that would prompt this court to interfere with the said sentence and reduce it. The appeal on sentence lacks merit and is hereby dismissed.

**Dated, Signed and Delivered** at NYAHURURU this 30<sup>th</sup> day of September, 2020.

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**R.P.V. Wendoh**

**JUDGE**

**PRESENT:**

Ms. Rugut for State

Hery – Court Assistant

Appellant Present