



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**CRIMINAL APPEAL 97 OF 2018**

**SUSAN KERUBO RAINI.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGEMENT**

Susan Kerubo Raini was charged in Githongo SRM's court CR. C. No. 298 of 2018 with the offence of stealing by servant contrary to Section 281 of the penal code.

Upon consideration of prosecution witnesses evidence and appellants evidence the Honourable trial Magistrate established that the money appellant claimed she send to one Wairimu Kshs 50,000/= had actually been used for gambling to Betin Kenya on 21.2.2018.

It was also established she didn't send any money to Gitune Contractors or James as alleged. It was established she send Kshs. 70,000/= to Betin Kenya on 21.2.2018 and not to Wairimu.

The appellants claim that she left the money in the drawer when she fell sick and was unable to attend to her duties were therefore blatant lies. This court finds that the trial magistrate conclusion that appellant stole from her employer was based on evidence on record and cannot be faulted. The entire amount the appellant claimed was left in the drawer was established to have been used in gambling. The conviction is upheld.

In consideration however that the state points out the appellant has made good the loss to the complaint and in consideration of the health challenges experienced by the appellant exhibited by the annexures to appellants affidavit, this court will review her sentence to a discharge under S.35 (1) P.C believing that she has learnt her lessons during the periods she has learnt her lessons during the periods she was in custody.

**HON. A.ONG'INJO**

**JUDGE**

**JUDGMENT DELIVERED, DATED AND SIGNED THIS 24TH DAY OF JANUARY 2019**

**In the presence of**

Ms Kiome Advocate for Appellant

Ms Mwaniki for state

Appellant Present in person

**Court**

The court bail to be released to appellant upon confirming that complaints money was handed over by appellant.

**HON. A.ONG'INJO**

**JUDGE**