



**REPUBLIC OF KENYA**

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

**CRIMINAL DIVISION**

**CRIMINAL REVISION NO.812 OF 2018**

**SUSAN NYAMBOKE MAGANGI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

The Applicant, Susan Nyamboke Magangi was charged with the offence of **child stealing** contrary to **Section 174(1)(a)** of the **Penal Code**. The particulars of the offence were that on 9<sup>th</sup> April 2017 at Tushauriane area, Kayole Estate, Embakasi within Nairobi County, the Applicant forcefully took VN, a child aged three and a half (31/2) years with the intent to deprive EWW, the parent who had lawful care and custody of the said VN. The Applicant pleaded not guilty to the charge, but later, through a plea agreement admitted to having committed the offence. She was sentenced to serve two and a half(21/2) years imprisonment on 26<sup>th</sup> June 2018.

The Applicant filed an application to this court seeking to have the period that he was in remand custody taken into consideration. It was common ground that the Applicant was in custody for a period of one (1) year before her conviction. On perusal of the proceedings of the trial magistrate, it was clear to this court that the court took into consideration this period when it sentenced the Applicant. The trial court explained that it would have sentenced the Applicant to serve a period of three and a half (31/2) years imprisonment. However, the trial court took into account the period of one (1) year that the Applicant was in remand custody.

This court therefore finds no merit with the Applicant's complaint which was to the effect that the period that she was in remand custody before her conviction and sentence was not taken into account. In the premises therefore, the Applicant's application dated 13<sup>th</sup> September 2018 lacks merit and is hereby dismissed. It is so ordered.

**DATED AT NAIROBI THIS 20<sup>TH</sup> DAY OF FEBRUARY 2019**

**L. KIMARU**

**JUDGE**