



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAHURURU

CRIMINAL APPEAL NO.204 OF 2017

(Appeal Originating from Nyahururu CM's Court Criminal Case No.1890 of 2017 by: Hon. I.O. Momanyi – S.R.M.)

SAMUEL MUCHEMI WAMBUGU.....APPELLANT

–V E R S U S –

REPUBLIC.....RESPONDENT

J U D G M E N T

Samuel Muchemi Wambugu was convicted on his own plea of guilty for the offence of Arson Contrary to Section 332(A) of the Penal Code.

The particulars of the charge are that on 5/1/2015, at 0130 hours at Bahati Trading Centre, Nyandarua West County, willfully and unlawfully set fire to a dwelling house valued at Kshs.200,000/=, the property of Miriti Nkiria Magiri.

Upon conviction, the appellant was sentenced to serve 8 years imprisonment.

Being aggrieved by the sentence, he preferred this appeal on the following grounds; that he did not waste the court's time when he pleaded guilty; that he was a first offender; that he got a spinal injury after he was involved in an accident in 2016. Although one of the grounds is that he was not warned of the consequences of pleading guilty, at the hearing of this appeal, the appellant informed the court that the appeal was only against the severity of the sentence.

The appeal was opposed by Mr. Maroro, learned counsel for the State. He urged the court not to interfere with sentence because it is lawful and there is no reason to interfere.

I have considered the grounds of appeal. Indeed the appellant pleaded guilty to the charge and did not waste the court's time. He was treated as a first offender, which fact the court also took into consideration. He claims to have a spinal injury but there was no supporting evidence.

The appellant was charged under Section 332(a) of the Penal Code and upon conviction, one is liable to life imprisonment.

Taking into account the grounds of appeal and the circumstances of the case, I do allow the appeal on sentence, to the extent that I reduce the sentence to 5 years imprisonment. The appellant is therefore sentenced to 5 years imprisonment from the date he was sentenced on 6/11/2017. The appeal succeeds to that extent.

Dated, Signed and Delivered at NYAHURURU this 30th day of April, 2019.

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R.P.V. Wendoh

JUDGE

PRESENT:

Ms. Rugut – Prosecution Counsel

Soi- Court Assistant

Appellant - present