

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

CORAM: D. S. MAJANJA J.

CRIMINAL APPEAL NO. 64 OF 2016

BETWEEN

PHILIP TARUS.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Being an appeal against the original conviction and sentence of Hon. H. M. Nyaberi, SPM dated 6th May 2016 at the Magistrates Court at Iten in Criminal Case No. 1187 of 2005)

JUDGMENT

1. At the hearing of this appeal, the appellant, **PHILIP TARUS**, abandoned the appeal on conviction and urged the court to review the sentence. He was convicted on one count of arson contrary to **section 322 (a)** of the *Penal Code (Chapter 63 of the Laws of Kenya)* whose particulars were that on 23rd August, 2015 at 1700 hours at Sogom Village, Kabulwo Sub-Location, Keu Location, Elgeyo Marakwet County, he willfully and unlawfully set fire to a building valued at Kshs. 35,000/= belonging to Edna Kemboi. On the second count, he was charged with house breaking contrary to **section 304 (1) (b)** and stealing contrary to **section 279 (b)** of the *Penal Code* in that on the same day in the same time he broke and entered a building used as a dwelling house by Thomas Kosgei and stole 4kg of honey valued at Kshs.1200/= the property of the said Thomas Kosgei.

2. Upon conviction, he was sentenced on each count to three (3) years' imprisonment with both sentences to run consecutively. At the sentencing, the appellant confirmed that he had been convicted in **Eldoret Criminal Case No.74/2015** for stealing by agent and sentenced to 1-year probation on 17th July, 2015 and in **Eldoret Criminal Case No.1086/2015**, he was sentenced for 3 years. It is clear therefore the appellant was not a first offender.

3. I have read the evidence and I find the appellant is a violent person. Before he stole from one house and burnt the other one, he inflicted violence on several persons hence I cannot say the sentences are harsh or excessive. Further, the sentences are in respect of two crimes committed in two separate homes and the trial magistrate was correct to impose consecutive sentences.

4. This appeal is dismissed.

DATED and DELIVERED at ELDORET this 25th day of APRIL 2019.

D.S. MAJANJA

JUDGE

Appellant in person.

Ms Mokuia, Prosecution Counsel, instructed by the Director of Public Prosecutions for the respondent.