

REPUBLIC OF KENYA

IN THE HIGH COURT AT NANYUKI

CRIMINAL APPEAL NO 124 OF 2017

PAUL LESURIAN.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence dated 10/07/2017 in Maralal PM Criminal Case No 492 of 2017– A Gachie, SRM)

J U D G M E N T

1. The Appellant in this appeal, **PAUL LESURIAN**, was convicted upon his own plea of **stock theft** contrary to **section 278** of the **Penal Code**. On 10/07/2017 he was sentenced to serve four (4) years imprisonment. He has appealed only against that sentence. Learned prosecution counsel has opposed the appeal, arguing that the sentence imposed was lawful and was not manifestly harsh or excessive.
2. I have considered the Appellant’s written petition of mitigation as well as the submissions of the learned counsel. The maximum sentence provided by law for the offence of stock theft under section 278 of the Penal Code is fourteen (14) years imprisonment. The Appellant got 4 years. It was a lawful sentence, and the only thing to consider is whether it was manifestly harsh or excessive in the circumstances of this case.
3. It is to be noted that the Appellant got less than one third of the maximum punishment provided for the offence. The Appellant (who was 2nd accused before the trial court) merely stated in mitigation before sentence that he was sorry. The trial court noted that the offence was serious and prevalent in **Samburu County**, and that it called for a deterrent sentence. It awarded 4 years imprisonment to the Appellant and his co-accused.
4. Sentencing is an exercise of discretion by the trial court. This court will interfere only if it can be demonstrated that in arriving at the sentence imposed the court applied the wrong principle, or that it misapplied a principle, or that the sentence is manifestly harsh or excessive in the circumstances. None of these things has been demonstrated by the Appellant.
5. The appeal against sentence clearly has no merit, and the same is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 10TH DAY OF APRIL 2019

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 11TH DAY OF APRIL 2019