

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NO. 853 OF 2018

SUSAN WAIRIMU.....1ST APPLICANT

ISAAC NDUNG’U NG’ETHE.....2ND APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The Applicant was charged with stealing contrary to **Section 268(1)** as read with **Section 275 of the Penal Code**. It is said that he and another stole various household goods all valued at Kshs. 200,000/=.
2. In the alternative, he was charged with handling stolen goods contrary to **Section 322(2) of the Penal Code**.
3. He was found guilty of the alternative charge and sentenced to pay a fine of Kshs. 300,000/= in default serve 4 years imprisonment.
4. This is a sentence that was not proportionate to the offence in that the value of the goods was not so high as to attach the stringent sentence. In my view, the period the Applicant has been in remand custody is a sufficient sentence. I order that he be forthwith set free unless otherwise lawfully held.

Dated and Delivered at Nairobi This 25th day of November, 2019.

G.W.NGENYE-MACHARIA

JUDGE.

In the presence of:

1. *Applicant in person*
2. *M/s Akunja for the Respondent*