



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**CRIMINAL APPEAL NO. 143 OF 2011**

**ISMAEL ABDI.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1 The Appellant, ISMAIL ABDI appealed against the conviction and sentence in criminal case No 1692 of 2010 before the Chief Magistrate's court in Mombasa.

2 The appellant was jointly charge with others with the following offences;

(1) In count 1, he was charged with the offence of Godown breaking and stealing contrary to section 306 (a) of the Penal Code;

(2) In alternative counts, the appellant was charged with handling stolen property contrary to section 322 (2) of the Penal Code.

3 After full trial, on 27<sup>th</sup> day of June, 2011, the appellant was convicted and sentenced to serve a 2 year imprisonment for the offence of handling stolen property. And on being aggrieved by this, he filed an appeal.

4 During the pendency of the appeal, the appellant, through his counsel, HASSAN ABDI and Co. Advocates, applied for release on bond pending the hearing and determination of the same. He was ordered to be released on a bond of Ksh 30,000/= with one surety of a similar amount or in the alternative, a cash bail of Ksh 30,000/=. He paid the cash bail of Ksh 30,000/= and was released on 30.6.2011.

5 After his release on cash bail, the appellant failed to attend court and a warrant of arrest was issued against him on 2.12.2016. The said warrant of arrest remained in force until 20.6.2017 when it was forfeited to the state.

6 It is for this reason that the state has sought to have the appeal marked as abandoned pending the execution of the warrant of arrest which was issued against the appellant. And if the appellant is arrested following the said warrant of arrest, he will proceed to serve the sentence which was meted against him by the lower court on 27<sup>th</sup> June, 2011.

**Ruling delivered, signed and dated this 21<sup>st</sup> day of May, 2018.**

**LADY JUSTICE D. O. CHEPKWONY**

In the presence of:

M/s Ocholla, counsel for the state

Appellant –Absent

C/clerk- Beja