

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NANYUKI

CRIMINAL APPEAL NO 106 OF 2017

EBRAHIM KIOGORA MEME.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence dated 25/07/2017

in Nanyuki CM Criminal Case No 1300 of 2016 – L Mutai , CM)

J U D G M E N T

1. The Appellant **EBRAHIM KIOGORA MEME** was convicted after trial of *obtaining money by false pretences* contrary to **section 313** of the *Penal Code*. It was alleged in the particulars of the offence that on diverse dates between 4th May and 28th July 2016 in Meru Town within Meru County, with intent to defraud, he obtained KShs 450,000/00 from one **SAMUEL NGUMO WARUTERE** by falsely pretending that he would sell a parcel of land known as L.R. Kiiirua/Nkando/1426 to the said complainant, a fact he knew to be false. On 25th July, 2017 he was sentenced to two (2) years imprisonment. He has appealed against the sentence only.
2. The offence carried a maximum of three (3) years imprisonment. The trial court took into account the fact that the Appellant was a first offender and was in remand prison for nine (9) months during his trial. Nevertheless the complainant was not the first person that the Appellant had similarly swindled over the same parcel of land. He had previously swindled another person who testified as PW3.
3. The Appellant also had not refunded to the complainant the KShs 450,000/00 that he had defrauded him.
4. In all these circumstances, the term of imprisonment of two (2) years was richly deserved, and there is absolutely no valid reason for this court to interfere. The appeal against sentence has no merit and is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 2ND DAY OF AUGUST 2018

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 15TH DAY OF AUGUST 2018