



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO. 47 OF 2016

ANTHONY MAKANYA KIRAGURI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

*(Being an appeal from the original conviction and sentence by Hon. E. BETT – SENIOR RESIDENT
MAGISTRATE dated 5th February 2016 in Nanyuki Chief Magistrate’s Court Criminal Case No. 804
of 2015)*

JUDGMENT

1. **ANTHONY MAKANYA** was convicted on 2 counts before the Chief Magistrate’s Court at Nanyuki. On the first count he was charged with the **offence of entering into a National Reserve without licence or permit contrary to section 102 (a) of the Wildlife Conservation and Management Act 2013 (Wildlife Act)**. On count 2 he was charged with the **offence of cutting and removing forest produce without authority contrary to section 52(2)(a) of the Forest Act No. 7 of 2005 (the Forest Act)**. The trial court sentenced the appellant on count one to a fine of kshs.200,000 and in default 2 years imprisonment. On count 2 the appellant was sentenced to a fine of Kshs.50,000 and in default 6 months imprisonment. The appellant has appealed against those sentences.
2. The appellant by this appeal seeks for this court to reconsider the sentence of the trial court. He submitted at the hearing of his appeal that he has reformed since being imprisoned and that he had gained skills in prison which will assist him to be self-reliant when he is out of prison.
3. In respect to **section 102** of the **Wildlife Act** the sentence passed by the trial court was as provided therein. The section provides that the sentence when one is convicted under that section is a fine of Kshs.200,000 and in default 2 years imprisonment. That is the sentence which the trial court passed against the appellant on count one.
4. Similarly in respect to the second count the sentence as per the trial court did not contravene the law. Under **section 52(2)(a)** of the Forest Act the minimum sentence in respect when one who is convicted under that section is a fine of not less than Kshs.50,000 or imprisonment of a term of 6 months or both. As it will be seen from the above narration of the trial court’s judgment, the appellant was sentenced to pay a fine of kshs.50,000 and in default to serve a term of imprisonment of 6 months.
5. The trial court sentence in both counts was lawful. Those sentences do not attract any interference from this court. It is for that reason that the **appellant’s appeal against sentence fails and is dismissed.**

DATED AND DELIVERED THIS 28th DAY OF MARCH 2017.

MARY KASANGO

JUDGE

CORAM

Before Justice Mary Kasango

Court Assistant: Ndungu

Appellant: Anthony Makanya Kiraguri

For the State:

Language:

COURT

Judgment delivered in open court.

MARY KASANGO

JUDGE