



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**CRIMINAL APPEAL CASE NO. 34 OF 2009**

**LILIAN KAWIRA MICHUBU ..... APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**SENTENCE**

The Judgment of this appeal was delivered on 5/10/2017. The appeal was disallowed. The appellant was sentenced to serve three years Imprisonment on 18/2/2009 by the trial Court. I had assumed that the appellant had served the entire sentence. It has been brought to my attention that the appellant was released on bond and has all along been out on bond.

The record shows that the appellant was convicted on 18/2/2009. An application to have her released on bond pending appeal was heard on 26/3/2009. Justice ANYARA EMUKULE, (as he then was) allowed the application and granted bond of Ksh 15,000 with one surety of similar amount. The application was granted on the same day 26/3/2009.

The appellant therefore was in prison from 18/2/2009 to 26/3/2009. This is a period of over one month. She was returned to prison on 5/10/2017 and has been serving the sentence. This second spell has also run for over one month. The victim is the appellant's neighbour. Having tested freedom from March 2009 to October 2017 and having been returned to prison for another period of over one month, I do find that the appellant has suffered enough punishment. The three years imprisonment is hereby set aside and replaced with the two periods of about two and a half months already served. The appellant shall be set at liberty unless otherwise lawfully held.

**Dated and signed at Marsabit this.....day of November, 2017**

**S. CHITEMBWE**

**JUDGE**

**Dated, Signed and Delivered at Meru this 29th Day of November, 2017**

**A. MABEYA**

**JUDGE**