

REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA

CRIMINAL APPEAL NO. 6 OF 2016

BETWEEN

CHARLES AHIRO ONDIEGE APPELLANT

AND

REPUBLIC RESPONDENT

(Being an appeal against the original conviction and sentence dated of Hon. H. Wandere, PM dated 6th January 2016 in Siaya Principal Magistrates Court Criminal Case No. 33 of 2015)

JUDGMENT

1. The accused **CHARLES AHIRO ONDIEGE** was charged with arson contrary to contrary to **section 332(a)** of the *Penal Code (Chapter 63 of the Laws of Kenya)*. He was convicted and sentenced to 7 years' imprisonment. He appealed against conviction and sentence. At the hearing of the appeal, he stated that he was only contesting the sentence as it was unduly harsh.
2. Learned State Counsel, opposed the appeal and noted that since the maximum sentence for arson was life imprisonment, the sentence was neither harsh nor excessive. The reason for which this court may interfere is clear and it is that the trial court may have considered or taken into account the wrong factors or have to failed to take into account the correct factors or erred in principle to the extent that the sentence was manifestly harsh.
3. Having considered that the accused was a first offender with the facts disclosed in the sentencing notes which took into account the fact that the appellant was a drunkard, used to take alcohol and bhang and was a nuisance to his family, a custodial sentence was warranted.
4. However, noting the time he has spent in prison and having shown remorse, I reduce the sentence to five (5) years imprisonment.

DATED AND SIGNED AT SIAYA THIS 22ND DAY OF DECEMBER 2017.

D.S. MAJANJA

JUDGE

Appellant in person

Ms Odumba, Prosecution Counsel, instructed by Office of Director of Public Prosecutions for the State

Court Assistants: L. Odhiambo, L. Atika