



**REPUBLIC OF KENYA**

**IN THE HIGH OF KENYA AT NYERI**

**CRIMINAL APPEAL NO. 50 "A" OF 2013**

**LAWRENCE NGURE MAINA..... APPELLANT**

**VS**

**REPUBLIC .....RESPONDENT**

(Appeal from the judgment of the Hon.W.Juma (CM) delivered on 12/03/2012 in Criminal Case No. 244 of 2012)

**JUDGMENT**

The appellant, **Lawrence Ngure Maina** was charged with the offence of trafficking in narcotic drugs contrary to **Section 4(a)** of the **Narcotic Drugs and Psychotropic Substances Control Act**. The particulars of the charge

**FACTS**

1. The appellant was subsequently charged at the Chief Magistrates Court at Nyeri and was convicted on his own plea of guilty and sentenced to serve a term of ten (10) years imprisonment.
2. Being aggrieved by both conviction and sentence, the appellant filed a Petition of Appeal on the 28<sup>th</sup> March, 2012.
3. The appeal was heard on the 11/11/2015 with Mr. Njue appearing for the State and the appellant appeared in person; both Prosecuting Counsel for the State and the appellant made oral presentations; at the hearing the appellant abandoned his appeal on conviction and proceeded only on the appeal against sentence; hereunder is a brief summary of the parties submissions

**APPELLANTS SUBMISSIONS**

4. The appellant prayed that the sentence be reduced to enable him go back to serve the society.

**RESPONDENTS SUBMISSIONS**

5. The appeal was opposed; Counsel submitted that the appellant pleaded guilty to the charge of trafficking drugs contrary to Section 4(a) of the Narcotics Control Act Cap.245 Laws of Kenya; that the law provides for a fine of KShs.1,000,000/- or a life sentence; that the sentence imposed by the trial court of ten (10) years was lenient.
6. Counsel prayed that the sentence be upheld.

## **ANALYSIS**

7. With the consent of Prosecuting Counsel for the State this court called for a Probation Officers Report; the report was filed in court on the 12<sup>th</sup> July, 2016 and it unfortunately did not favour a non-custodial sentence for the appellant;

8. The appellant was convicted for the offence of handling stolen property and Section 322 (2)of the Penal Code provides as follows;

**“Section 322 (2): Any person who handles stolen goods is guilty of a felony and is liable to imprisonment with hard labour for a term not exceeding fourteen years.”**

9. The record shows that the appellant was a first offender and was invited by the trial court to mitigation before he was sentenced; it is this courts considered view that the trial court did not overlook any material factor when sentencing the appellant to a term of six (6) years; the sentence is legal and indeed the sentence imposed is found to be lenient; this court finds no good reason that warrants interference with the term imposed by the trial court.

## **FINDINGS AND DETERMINATION**

10. This court finds no good reason that warrants interfering with the sentence imposed.

11. The appeal on sentence is found to be lacking in merit and is hereby disallowed.

12. The sentence is hereby upheld.

Orders accordingly.

**Dated, Signed and Delivered at NYERI this 27th day of October, 2016.**

**HON.A. MSHILA**

**JUDGE.**