



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MERU

CRIMINAL APPEAL NO. 115 OF 2013

PAMELA KARIMI.....APPELLANT

-VS-

REPUBLIC.....RESPONDENT

JUDGEMENT

The Appellant Pamela Karimi was charged with the offence of Arson contrary to Section 332 (a) of the Penal Code. On 6th November 2013, she was convicted on her own plea of guilty and sentenced to 10 year's imprisonment. Being aggrieved by the conviction and sentence, the Appellant preferred this appeal. The grounds of appeal can be summarized in two broad grounds.

1. **That the trial court failed to consider the fact that the plea was equivocal.**
2. **That the sentence meted on the appellant was harsh and excessive.**

The appeal was opposed. It was contended for the State by Mr. Mungai, Learned Counsel that the Appellant pleaded guilty to the offence; that before sentence, the court asked for a report from the Probation officer which was not favourable to the Appellant; that the sentence was lenient since the offence attracted a maximum sentence of life imprisonment.

I have carefully considered this Appeal and the issues raised by the Appellant. A cursory perusal of the record shows that indeed the Appellant was convicted on her own plea of guilty. The record further indicates the charges were read to the Appellant in the Swahili language, which the accused understood. When the facts were read to the Appellant, she intimated to the court that they were correct. The Appellant did not raise the issues that she is now raising before the trial court. That can only be an afterthought. The Appellant in mitigation further stated that she had nothing to say.

Before sentence, the trial court asked for a probation officer's report, but the same was not favourable to the Appellant. According to the Probation Report, the Appellant was not remorseful and appeared to have a don't care attitude. Her own family members were of the view that the Appellant should be given a deterrent sentence in order to curb a repeat of the same.

The Trial Magistrate in sentencing the accused stated as follows:

"I have looked at the report in respect of the accused person and I find that the same is not favourable. In the circumstances and taking into consideration the nature of the offence which provides for a life sentence and taking note of the fact that the family has recommended a

deterrent sentence as per the report presented to court by the probation officer and also being guided by the age of the accused person who in the eyes of the court is a young lady of mid 20s I exercise my discretion and sentence her to serve 10 years imprisonment. Right of appeal 14 days granted.”

Section 348 of the CPC, provides that no appeal is allowed on plea of guilty except against the extent and legality of the sentence. In this case the accused was sentenced to 10 years imprisonment. The sentence is legal.

Courts have held that an appeal can lie against a plea of guilty if the plea is not unequivocal. In this case the charge was read in a language the appellant understood. She did not dispute any facts. The plea was unequivocal. In the result I find no reason to interfere with the conviction.

As regards the extent of the sentence the appellant pleaded guilty and hence did not waste the court’s time. Though she did not show any remorse at the time of conviction, she seems to be remorseful now. The probation officers report was not suitable. I think that the sentence of 10 years was on the higher side. In the exercise of my discretion, the appeal succeeds on sentence and I hereby reduce the term of 10 years imprisonment to 5 years imprisonment. The term of 5 years imprisonment will commence on the date of sentence that is on 4/11/2013. It is so ordered.

DATED SIGNED AND DELIVERED THIS 30TH DAY OF JANUARY, 2015

R. P .V. WENDOH

JUDGE

..... **for appellant**

..... **for State**

Jane Court Assistant

Appellant