



No.123

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL APPEAL NO. 115 OF 2013

MICHAEL KIPROTICH RONO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

1. This is a criminal appeal by Michael Kiprotich Rono, the appellant herein. Mr. Kiprotich Rono was charged for stealing stock contrary to section 278 of the Penal Code. The particulars thereof were that on nights of 16th and 17th day of July, 2013 at unknown time at Murkan Location in Transmara East District of Narok County, he stole one cow valued at kshs. 20,000 the property of Samuel Kibet.

2. When the charges and every element thereof were read to him in Kiswahili language that he understands, he being asked whether he admits or denies the truth of the charges:

Rotich answered in Kipsigis: It is true. The court, thus, entered the plea of guilty for Rotich.

3. The appellant filed an appeal and set out six (6) grounds thereof, there are:-

1. *That my lords, at the time of my conviction and sentenced to seven (7) years in jail I left behind my family who merely depend on me as their sole bread winner.*
2. *That my lords I am an orphan who was left with siblings that is six (6) orphans after the death of my parents.*
3. *That my lords since the time I entered into prison up to now I have learned the consequences of engaging in crime.*
4. *That my lords I was influenced by the peer group as a result of adolescent stage.*
5. *That my lords I have come back to my senses and realized my mistakes and the dangers of committing crimes and hereby promising never to commit such crime again.*
6. *That my lords I am now a reformed, changed man and rehabilitated as well and will be a witness to my fellow age mates in the community*

4. The essential gist of his appeal is, he seeks lenience as he is remorseful and he is an orphan; he seeks reduction of his sentence.

5. The state however, opposes his appeal. She, Clara; submitted that the sentence was proper and the trial court in meting out the sentence had taken into account, a combination of several factors, including the fact that the appellant was not first offender. The appellant was previously convicted of the offence of stock theft, as this one, and sentenced to two (2) years imprisonment.

6. He was also, similarly, convicted of shop breaking and sentenced to (3) years imprisonment. The two previous conviction confirmed that the appellant is a serial, or habitual offender, who deserves a deterrent sentence. The sentence, although proper, was a lenient one. Thus the state urged the court to dismiss the appellant's plea and uphold the conviction and sentence of the trial court.

7. In the light of the a foregone reasons- the appellant being a serial offender- the court is constrained to dismiss his application and uphold the sentence as meted out by the trial court. Therefore the appeal by the appellant is hereby dismissed.

8. It is so ordered.

Dated and delivered at KISII this 27th day of May 2015

C.B. NAGILLAH,

JUDGE.

In the presence of:

Appellant in person for the appellant.

Otieno for the respondent

Samuel Omuga - Court Clerk.