



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL APPEAL NO. 180 OF 2012

RASHID MWANDALU APPELLANT

VERSUS

REPUBLICRESPONDENT

(From original Conviction and Sentence in Criminal Case No. 347 of 2011 of the Principal Magistrate's Court at Voi – Hon. Nyakundi - **SRM**)

JUDGMENT

RASHID MWANDALU hereinafter referred to as the Appellant was Convicted and Sentenced to five (5) years imprisonment for the offence of stealing stock contrary to section 278 of the Penal Code.

The particulars being that:-

“On the 2nd day of November, 2009 at Gora Village Samburu -Kwale County, jointly with others not before the Court he stole four (4) heads of cattle of the value of Ksh. 140,000/= the property of SALIM CHINYAWA KAZUNGU”.

The Appellant initially had filed six (6) grounds of appeal but he abandoned his appeal on Conviction and decided to proceed with that of severity of Sentence.

The appellant was Convicted for the offence of stealing stock contrary to section 278 of the Penal Code which provides for an imprisonment term not exceeding fourteen (14) years. He was Sentenced to five (5) years imprisonment.

The stolen heads of cattle (4 bulls) were recovered in his homestead. They were clearly identified by the complainant as his heads of cattle.

In the circumstances of this case I do not think that the Sentence of five (5) years imprisonment was harsh neither is it excessive as the maximum provided for is fourteen (14) years.

This appeal has no merit and its disallowed.

Judgment delivered dated and signed this **30th** day of **September, 2014**.

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M. MUYA

JUDGE

30TH SEPTEMBER, 2014

In the presence of:-

Learned Counsel for the State Mr. Jami

The appellant in person

Court clerk Musundi