

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NO.43 OF 2013

RICHARD OMONDI OKOTH.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Applicant, Richard Omondi Okoth was charged with two counts of **stealing** contrary to **Section 268(1)** as read with **Section 275** of the **Penal Code**. The particulars of the offence were that on 21st May 2012 at Orange Villas Limited Hurlingham and at National Bank of Kenya, Kenyatta Avenue Branch, Nairobi, the Applicant respectively stole a Prime Bank Cheque leaf No.000029 and Kshs.96,000/-, the property of Orange Villas Limited. The Applicant was further charged with **forgery** contrary to **Section 345** as read with **Section 349** of the **Penal Code**. The particulars of the offence were that on 21st May 2012, jointly with others not before court, the Applicant forged a Prime Bank Cheque No.000029 of Kshs.96,000/- purporting it to be a genuine and valid cheque issued by Orange Villas Limited, a fact the Applicant knew was false. When the Applicant was arraigned before the trial court, he pleaded guilty to the charge. He was convicted on his own plea of guilty. He was sentenced to pay a fine of Kshs.30,000/- or serve six (6) months imprisonment in respect of the first count, a fine of Kshs.80,000 or in default eighteen (18)months imprisonment in respect of the second count and a fine of Kshs.288,000/- or two (2) years imprisonment in respect of the third count.

The Applicant has moved this court by way of revision seeking to have the sentences that was imposed on him either reviewed or varied. The Applicant is of the view that the sentence that was imposed on him was harsh and excessive in the circumstances. He deponed that the cumulative sentence of four (4) years imprisonment that he was sentenced to serve was not commensurate with the offences that he had committed. At the hearing of the application, the Applicant pleaded with the court to sentence him to serve a non-custodial sentence instead of the term of imprisonment that he was ordered to serve. Ms. Aluda for the State did not oppose the application. She conceded that the sentences imposed ought to run concurrently and not consecutively. The Applicant had already served a term of eighteen (18) months imprisoned.

This court has carefully considered the facts of this case. The Applicant pleaded guilty to the charges that were brought against him. He saved the court's time. It was apparent to the court the period of eighteen months imprisonment that the Applicant has served is sufficient punishment taking into consideration the nature of the charges that he faced. He is remorseful and has learnt his lesson. He pleads for this court's leniency. The State does not oppose for the sentences that were imposed on the Applicant to be consolidated and be ordered to run concurrently instead of consecutively. This court is however of the view that the period that the Applicant has served is sufficient. The sentences imposed on the Applicant are commuted to the period already served.

The Applicant is ordered set at liberty forthwith unless otherwise lawfully held. It is so ordered.

DATED AT NAIROBI THIS 19TH DAY OF NOVEMBER 2014

L. KIMARU

JUDGE