



REPUBLIC OF KENYA

High Court at Mombasa

Criminal Appeal 151 of 2011

(From Original Conviction and Sentence in Criminal Case No. 158 of 2011 of the Senior Resident Magistrate's Court at Taveta – C. N. Ndegwa (SRM))

SAYONI OLE PAYAL APPELLANT

- Versus -

REPUBLIC RESPONDENT

J U D G M E N T

The Appellant was sentenced to five years imprisonment for the offence of Stealing Stock contrary to Section 278 of the Penal Code.

He had been jointly charged with another man by the name of Mwana Mutupulwa (2nd accused).

The particulars of the charge sheet were that on the 15th day of May 2009 at around 2.00pm at Njoro Village within Taita Taveta County, they stole one cow brown in colour valued at Kshs. 30,000/- the property of Sikoyo Ole Moyiani.

The Appellant in this case pleaded guilty to the charge and was convicted and sentenced to five years imprisonment. His colleague pleaded not guilty, had his case heard to conclusion and was found guilty and convicted and sentenced to five years imprisonment.

The offence of stock theft attracts a maximum sentence of 14 years. The Appellant in this case pleaded guilty to the charge and did not waste judicial time. The trial Magistrate should have born this in mind when meting out the same imprisonment term as the 2nd Accused. The imprisonment term of five years is hereby reduced to three years. He will now serve three years.

To that extent only does his appeal succeed.

Dated and delivered at Mombasa this 20th day of March, 2013.

**M. MUYA
JUDGE**

In the presence of:-

Mr. Jami for State

Accused - present

Court clerk – Mr. Musundi

**M. MUYA
JUDGE**