



REPUBLIC OF KENYA

High Court at Embu

Criminal Appeal 108 of 2012

DICKSON MURIMI MURIUKIAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

From original conviction and sentence in Cr. Case No. 1082 OF 2011 at the Chief Magistrate's Court at Embu by Mrs M. Wachira – CM on 20/7/2011

J U D G M E N T

DICKSON MURIMI MURIUKI the Appellant was charged with two offences;

COUNT 1

KIOSK BREAKING AND COMMITTING A FELONY CONTRARY TO SECTION 306(a) OF THE PENAL CODE

The particulars as stated in the charge sheet were as follows;

DICKSON MURIMI MURIUKI: On the 4th day of July 2011 at Grogon estate, Municipality location in Embu West District within Embu County with others not before Court, with intent to steal therein broke and entered the kiosk of PATRICIA KAGENDO and did steal 17 long trousers, 7 skirts, one short, one track suit trouser, 9 sachets of royco of 13 grammes, a sachet of 15 biscuits and 6 sachets of fair and lovely cream lotion all valued at ks.5,910 the property of PATRISCA KAGENDO BUNDI.

ALTERNATIVE COUNT

HANDLING STOLEN GOODS CONTRARY TO SECTION 322(1)(2) OF THE PENAL CODE

The particulars as stated in the charge sheet were as follows

DICKSON MURIMI MURIUKI: On the 19th day of July 2011 at Grogon estate, Municipality location in Embu West District within Embu County otherwise than in the cause of stealing, dishonestly retained 17 long trousers, a pair of short, 7 skirts, one track long trouser, 9 sachets of royco of 13 grammes, a sachet of 15 biscuits and 6 sachets of fair and lovely lotion/cream knowing or having reason to believe them to be stolen goods.

COUNT II

BURGLARY CONTRARY TO SECTION 304(2) AND STEALING CONTRARY TO SECTION 279(b) OF THE PENAL CODE

The particulars as stated in the charge sheet were as follows;

DICKSON MURIMI MURIUKI: On the night 18th day of July 2011 at Grogon estate, Municipality location in Embu West District within Embu County with others not before Court, broke and entered the dwelling house of MORRIS GIKUNDI KIMANI with intent to steal therein and did steal from therein 2 long trousers, one T-shirt and 3 Nokia mobile phone batteries the property of the said MORRIS GIKUNDI KIMANI all valued at ks.1,600/=.

ALTERNATIVE COUNT

HANDLING STOLEN GOODS CONTRARY TO SECTION 322(1)(2) OF THE PENAL CODE

The particulars as stated in the charge sheet were as follows

DICKSON MURIMI MURIUKI: On the 19th day of July 2011 at Grogon estate, Municipality location in Embu West District within Embu County otherwise than in the cause of stealing, dishonestly retained one shirt, and 3 Nokia mobile phones knowing or having reason to believe them to be stolen goods.

When the Appellant appeared before the learned Chief Magistrate the charge and elements thereof were read to him in Kiambu language which he understands and he admitted the Principal charges. The facts were again read to him and he admitted them. He was properly convicted and sentenced.

I have no reason to interfere with the conviction. Besides telling the Court that he had learnt carpentry he did not show any reason why this Court should interfere with the sentence. Mr. Miiri the learned State Counsel opposed the appeal on sentence terming the sentence as lenient.

I have considered the fact that the items stolen were valued at about shs.8,000/=. Most of them were recovered. I will reduce the Appellant's sentence as follows;

Count 1 - To serve 3 years imprisonment from date of conviction

Count 2- 1st limb – 3 years imprisonment from date of conviction

- 2nd limb – 3 years imprisonment from date of conviction

Sentences to run concurrently. To that extent **ONLY** does the appeal succeed.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT EMBU THIS 23RD DAY OF MAY 2013.

**H.I. ONG'UDI
J U D G E**

**In the presence of;
Mr. Miiri for State
Appellant
Njue – C/c**