

seeing and hearing the witnesses.

Briefly, it was the prosecution case that on the material date, **C.I.P Francis Kipsang (PW1)** and **P.C. Reuben Koros (PW3)**, acting on a tip-off, confronted the appellant and another at Baraza Park in Kakuma town. The appellant was at the time carrying a parcel which was unwrapped by the police officers and found to be an AK 47 rifle and its magazine containing five (5) rounds of ammunitions. The appellant did not have a certificate for the items. He was arrested and later charged with the present offences.

Ag. SSP Lawrence Thiwa (PW2), produced a report by his colleague who examined the recovered items and confirmed them to be firearms as described by the Firearms Act.

Jama Abdulahi Hassan (PW4), was with the appellant at the time of his arrest. He confirmed that the appellant was found to be in possession of the firearm and rounds of ammunitions. He also indicated that he was the person who tipped off the police about the appellant.

The appellant's defence was that the appellant had gone to a place called Lokore to seek assistance for his sick father. He was given medicine in a shop belonging to a friend of his aunt. As he was walking away he met a friend. They engaged in a conversation and it was at that juncture that police officers appeared and arrested them. They were taken to the police station but the other person was released after allegedly parting with some money. The appellant was later arraigned in court.

The appellant in essence denied the charges against him.

From all the foregoing evidence, it is apparent that the appellant's defence could not have been upheld by the learned trial magistrate as it had been adequately discredited by the strong evidence from the prosecution which proved that indeed the appellant was found in actual possession of a firearm and its rounds of ammunition while not being a holder of the vital and necessary firearms certificate.

The only way that the appellant would have escaped criminal liability for his possession of the said items was by showing that he had the legal authority to handle such items. He failed to show as much by producing the necessary certificate.

Consequently, his conviction by the learned trial magistrate was safe and sound.

The sentence imposed by the learned trial magistrate was lawful with regard to the first count but not the second count.

Both offences carry a minimum sentence of seven (7) years imprisonment and a maximum sentence of fifteen (15) years imprisonment.

Therefore, the sentence on count two is set aside and substituted for seven (7) years imprisonment.

Both sentences shall however run concurrently.

In sum, this appeal is dismissed for want of merit.

[Delivered and signed this 14th day of May, 2013.]

J.R. KARANJA.

JUDGE.