



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**CRIMINAL APPEAL NO. 94 OF 2012**

**ABDIRAHMAN MOHAMED ROBLE & 10 OTHERS .....APPELLANTS**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**(From original Conviction and Sentence in Criminal Case No. 1582 of 2009 of the Chief Magistrate's Court at Mombasa – Hon. S.K. Gacheru - PM)**

**JUDGMENT**

The Appellants in Criminal Appeal Cases Nos. 94 – 104 of 2012 (which were Consolidated) were convicted and Sentenced to twenty (20) years imprisonment for the offence of piracy contrary to section 69 (1) as read with section 69(3) of the Penal Code.

The particulars are that on the 3rd day of May, 2009 upon the high seas of the Indian Ocean, jointly being armed with offensive weapons namely 2 AK 47 Rifles, one RPG 7, 6 RPG Launchers and one knife attacked motor vessel F.N.S NIVOSE and at the time of such act put in fear the lives of the crewmen of the said vessel.

The case went to full hearing and determination.

This appeal is on sentence only. The grounds are that the Appellants were sentenced to twenty (20) years imprisonment which is harsh and excessive.

That the trial court did not consider that the prosecution had treated the Accused persons as first offenders.

That they had been in custody since their time of arrest which was on 8th May, 2009.

The appeal is opposed on the grounds that the Appellants were convicted on piracy charges which carry a maximum of life imprisonment whereas they had been sentenced to twenty (20) years imprisonment.

A perusal of the charge sheet presented before the court indicates that they were arrested on 8th May, 2009. They were in custody till the date of their Conviction on 19th day of April, 2012.

I have been referred to Mombasa High Court Criminal Appeal No. 110 of 2010 in which I reduced the sentence of twenty (20) years imprisonment for a similar offence of piracy to ten years imprisonment.

I have borne in mind that the Appellants were treated as first offenders. I have also noted that they were in remand for three years before their Conviction. The Sentence of twenty (20) years is therefore deemed as harsh. It is reviewed and reduced to five years imprisonment from the time of their Conviction.

Now that their Country of origin (Somalia) has returned to considerable normalcy, upon finishing Sentence to be repatriated back to their country (Somalia).

**Judgment dated and delivered in open Court this 30th day of August, 2013.**

.....

**M. MUYA**

**JUDGE**

**30TH AUGUST, 2013**

**In the presence of:-**

**Learned State Counsel Mr. Tanui**

**Learned Counsel Mr. Omar**

**Court clerk Mr. Musundi**