



**REPUBL**

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**CRIMINAL APPEAL NO. 82 OF 2011**

**MUSYOKA MUTUA.....APPELLANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**(From the Original Conviction and Sentence in the Criminal Case No. 685 of 2010 of the Principal Magistrate's Court at Voi – Hon. Nyakundi L.M. - RM)**

**JUDGMENT**

The appellant was Convicted of the offence of stealing stock contrary to section 278 of the Penal Code and was Sentenced to ten years imprisonment.

The particulars of the charge are that on the 13th day of September, 2010 at Kariokor Estate in Taita Taveta County, he stole one goat of the value of Ksh. 3,000/= the property of **SALOME WAMBUI**.

The Accused pleaded guilty to the charge. No previous records were presented to the Court.

The maximum Sentence under section 278 of the Penal Code is fourteen years. The Sentence of ten years for stealing a goat worth Ksh. 3,000/= is manifestly harsh and excessive more so when the appellant pleaded guilty to the charge at the first instance and hence saved Judicial time. He was treated as a first offender. It is noted that he has served close to two and half years.

That term is deemed sufficient punishment. The imprisonment term of ten years is reduced to the term he has already served. He is set at liberty unless otherwise lawfully held.

**Judgment read and delivered in open Court this 13th day of August, 2013.**

.....

**M. MU YA**

**JUDGE**

**13TH AUGUST, 2013**

**In the presence of:-**

**Learned State Counsel Miss Ogwenko for the State**

**The appellant present**

**Court clerk Musundi**

**M. MUYA**

**JUDGE**

**13TH AUGUST, 2013**