



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL APPEAL NO. 47 OF 2012

JAMES MWATATE APPELLANT

VERSUS

REPUBLICRESPONDENT

(From original Conviction and Sentence in Criminal Case No. 457 of 2010 of the Principal Magistrate's Court at Voi – Nyakundi - RM)

JUDGMENT

The Appellant was Convicted and Sentenced to five years Imprisonment for the offence of stealing from a dwelling house contrary to section 297 (b) of the Penal Code.

The particulars are that on the 22nd day of May, 2010 at Voi township in Voi Taita Taveta County he entered into a dwelling house of Caroline Shwashwa with intent to steal and did steal from therein a DVD, A wrist watch make Titan, two body sprays, car remote control all valued at Ksh. 20 000/= the property of the said Coroline Shwashwa.

The Accused pleaded guilty to the charge in Swahili language, facts were read to him which he admitted and he was Convicted and Sentenced to five years imprisonment.

The offence carries an imprisonment term of fourteen (14) years. The Accused was not a first offender as he had one previous Conviction of stealing by servant.

I find the Sentence was a bit harsh. It is reduced to three years imprisonment. He will now serve three years imprisonment. To that extent only does this appeal succeed.

Judgment dated delivered and signed this **24th** day of **September, 2013**.

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M. MUYA

JUDGE

24TH SEPTEMBER, 2013

In the presence of:-

The Learned State Counsel Mr. Dzumo

The Appellant present

Court clerk Musundi