



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**CRIMINAL APPEAL NO. 47 OF 2011**

**ROBERT MAKAU ..... APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(Being an appeal from the conviction and sentence of Hon. S.K. Mutai Resident Magistrate delivered on 24/5/2013 in Mutomo Senior Resident Magistrate Criminal Case No. 55of 2011)*

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*(Before Hon. B. Thurania Jaden J)*

**J U D G M E N T**

1. The Appellant **Robert Makau**, was charged with the offence of being in possession of Cannabis Sativa (Bhang) contrary to **section 3 (1) (2) (a)** of the **Narcotic Drugs and Psychotropic Substances Control Act No. 4 of 1994**.

The particulars of the offence were that on the 21<sup>st</sup> day of February 2011 at around 9.00 a.m, at **Ikanga market, Ikanga Location** in **Mutomo District** within **Kitui County**, was found in possession of **Cannabis Sativa** (Bhang) to wit 15 grammes with a street value of Kshs.150/= which was not in any form of medicinal preparation.

2. When the Appellant was arraigned before the lower court on 24/2/2011, he pleaded guilty to the offence. The Appellant was sentenced to seven years imprisonment.
3. The Appellant was aggrieved by the sentence and stated that the same is harsh and excessive. The State was not opposed to the appeal.
4. I have considered the quantity of the drug and its street value as stated in the particulars of the offence and the facts that were recorded by the court on the date of plea. I have also considered the mitigation that was offered by the Appellant who stated that he was married with three children.
5. I am persuaded that in the sentence meted out was harsh in the circumstances of this case. Consequently, I hereby reduce the sentence to the period already served. The Appellant is at liberty unless otherwise lawfully held.

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**B. THURANIRA JADEN**

**JUDGE**

**Dated and delivered at Machakos this 30<sup>th</sup> day of October 2013.**

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**B. THURANIRA JADEN**

**JUDGE**