

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CRIMINAL APPEAL NO. 87 OF 2010

LESIIT, J

ABDI AHMED.....APPELLANT

V E R S U S

REPUBLIC.....RESPONDENT

(This is an Appeal P.M.S court Chuka Criminal Case No. 1467 of 2009 from the judgment and sentence of P. Ngare delivered on the 23rd October, 2009).

JUDGEMENT

1. The Appellant pleaded guilty to one count of robbery contrary to section 296(1) of the Penal Code. He was sentenced 10 years imprisonment and thereafter to be under police supervision for 5 years. Being aggrieved by the sentence he filed this appeal.
2. In his short address to the court the Appellant urged that he was not challenging the conviction but was only challenging the sentence. He urged that he would like to be released by the court so that he can utilize the training and the knowledge that he had gained while in prison. He submitted that he had reformed and he will never repeat such an offence again.
3. The state was represented by Miss Murithi learned state counsel who opposed this appeal. Counsel urged that the offence the appellant was convicted of carries a maximum sentence of 14 years imprisonment. The learned state counsel urged that having been sentenced to 10 years imprisonment and 5 years police supervision the court had been lenient with the appellant and she urged the court to dismiss the appeal.
4. I have carefully considered the appellants appeal. The appellant pleaded guilty to the charge. In the learned trial magistrate ruling before sentence he did not note that the Appellant saved the courts time by pleading guilty to the offence. All he observed was that he was a first offender. That is not sufficient. The learned trial magistrate ought to have noted not only the fact that the appellant had pleaded guilty to the charge but also that in so doing he was demonstrating his remorsefulness for the offence. The Appellant continues to admit the offence he committed which is a demonstration of his remorsefulness. He also states that he has reformed and would not repeat the offence again. The sentence of 10 years imprisonment for a first offender who has pleaded guilty to the charge and who is remorseful for the offence is excessive in all the circumstances of the offence bearing in mind also that the offence was not aggravated and that the maximum term is 14 years. I will allow the appeal by setting the imprisonment term of 10 years and in substitution thereof impose a sentence of 6 years imprisonment from the date of sentence in the lower court.
5. The Police Supervision ordered by the learned trial magistrate is an illegal order as the provision for the same ceased to be law in the last century. That order is accordingly set aside.
6. Those are my orders.

DATED SIGNED AND DELIVERED AT MERU THIS 23rd DAY OF OCTOBER, 2013.

J. LESIIT

JUDGE