

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL APPEAL NUMBER 42 OF 2013

MERCY KARIMI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal from the original conviction and sentence in Embu Criminal Case Number 612 of 2013 by M.W. Wachira C M on 1st July, 2013)

JUDGMENT

The appellant was convicted on her own plea of guilty for selling traditional liquor without a licence contrary to Section 7(1) (b) as read with Section 62 of the Alcoholic Drinks Control Act. She appeals against the conviction and sentence.

She argues that the plea was not taken in a language she understands and the sentence of a fine of Ksh 80,000/= in default one year imprisonment was harsh and excessive. The state opposes the appeal and contends that the proceedings were regular and the sentence within the law.

I am satisfied that the record shows that the proceedings were conducted in English/Kiswahili and Kiambu and that she understood the nature of the charges.

I however consider the sentence excessive as she was a first offender.

In the circumstances, I allow the appeal only to the extent that the sentence is set aside and substituted with one of probation for one year. She shall be released forthwith unless lawfully held.

Court:

Judgment read and delivered in open court this 18th day of October, 2013

D.A.S MAJANJA

JUDGE

18.10.2013

In the presence of

Mr Njogu for state

Appellant

Njue – Court clerk.