

REPUBLIC OF KENYA

High Court at Mombasa

Criminal Appeal 462 of 2010

JOHN MWANGALOAPPELLANT

VERSUS

REPUBLIC RESPONDENT

(From the Original Conviction and Sentence in the Criminal Case No. 444 of 2009 of the Senior Resident Magistrate's Court at Voi: M.S.G. Khadambi – PM)

JUDGMENT

The appellant was Convicted and Sentenced to seven (7) years imprisonment for the offence of Stealing Stock contrary to section 278 of the Penal Code. His appeal is basically on the Sentence which he contends that is harsh and excessive.

The appellant had been entrusted with twenty seven (27) heads of cattle by the complainant as his herdsman. They all went missing during his watch.

Seventeen (17) were later recovered but nine (9) were never traced. The trial magistrate did not believe the defence given by the appellant for reasons which were explained in the Judgment.

Section 278 of the Penal Code provides for imprisonment term not exceeding fourteen (14) years. The appellant who was treated as a first offender was Sentenced to seven (7) years imprisonment. He alleges in his defence that he is aged 62 years old.

If that be true then he is an old man. The sentence of seven (7) years is reduced to four (4) years imprisonment. The appeal is allowed to that extent only. He will serve 4 years from the date of Sentence.

Judgment dated and delivered in open Court this **30th** day of **November, 2012**.

.....
M. MUYA
JUDGE

In the presence of:-

The appellant
Court clerk – Mr. Musundi