

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Criminal Appeal 12 of 2011

REPUBLIC.....RESPONDENT

VERSUS

PETER MAGOTHE NGANGA.....APPELLANT

(From original conviction and sentence in criminal case Number 1816 of 2010

in the Githunguri Court – Mr.S. Ndegwa (SRM) on 17th August, 2010)

JUDGMENT

The appellant was convicted of the offence of being in possession of bhang contrary to Section 3(1) as read with sub-section 2 (a) of Narcotic and Psychotropic Substances Control Act No. 4 of 1994. It was alleged in the particulars of the charge that on 18th December, 2009 within the precincts of Githunguri Law Courts, he was found in possession of 228 rolls of bhang. He denied the offence but after the full trial he was convicted and sentenced to 5 years imprisonment.

He lodged an appeal against both the conviction and sentence but when this appeal came up for hearing, he decided to address the court on the issue of sentence alone. It is his position that he has reformed and that he has learnt from his past mistakes. Given a chance, he says, he shall fit into the family he has come from. He showed the court several certificates relating to spiritual reformation. The learned counsel for the Republic opposed the appeal and asked that the same be dismissed.

On my part, I have considered the circumstances under which this offence was committed. The appellant was conveying the offending substance concealed in sandals and the recipient was a prisoner within the court premises. The amount of bhang was substantial and definitely intended for commercial purposes. He has no regard and or respect for the seat of justice from which, ironically, he now turns to for help.

The sentence of 5 years imprisonment in my view cannot be said to be excessive in the circumstances of this case. Accordingly, I see no reason whatsoever to interfere with the same. This appeal is therefore dismissed.

Orders accordingly.

Dated and delivered at Nairobi this 29th day of November, 2012.

A. MBOGHOLI MSAGHA
JUDGE