



**REPUBLIC OF KENYA**

**High Court at Mombasa**

**Criminal Appeal 319 of 2008**

**JOHNSTONE KAMAU MWANGI .....APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

(From the Original Conviction and Sentence in the Criminal Case No. 2900 of 2008 of the Chief Magistrate's Court at Mombasa– H.B. Yator - RM)

**JUDGMENT**

The appellant was Convicted and Sentenced to a fine of Ksh. 500,000/= or ten years imprisonment for the offence of being in possession of narcotic drugs contrary to section 3(1) as read with section 2(a) of the Narcotic drugs and Psychotropic substances Control Act No. 4 of 1994.

He pleaded guilty to the charge and was Convicted on his own plea. He appeals against the Sentence only.

The penalty for possession of Narcotics drugs is provided for under section 3(2) (a) thus ,

**“A person guilty of an offence under sub section I shall be liable ... in respect of Cannabis Sativa, where the person satisfies the Court that the Cannabis was intended solely for his own consumption to imprisonment for ten years and in every other case to imprisonment for twenty years.”**

The facts presented to the trial Court by the prosecutor were to the effect that police officers got information that there was a person selling Bhang at a nearby Bus Stage, they proceeded there and found the Accused making rolls of Cannabis Sativa. Upon search he was found with eighty one (81) rolls. The facts given by the prosecution point to trafficking which attracts a Sentence of twenty (20) years imprisonment but the appellant was sentenced to ten years with an option of fine. There is nothing to show that the appellant had satisfied the Court that the Cannabis was for his own consumption. I do find the trial Court to have been lenient on him. There is no good reason to disturb the Sentence.

His appeal is dismissed.

Judgment dated and delivered this **27th** day of **November, 2012**.

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**M. MUYA**  
**JUDGE**

**In the presence of:-**

Mr. Tanui for the State

The appellant himself

Court clerk – Mr. Musundi