



REPUBLIC OF KENYA

High Court at Mombasa

Criminal Appeal 244 of 2009

SAMUEL NDORO APPELLANT

VERSUS

REPUBLIC RESPONDENT

(From the Original Conviction and Sentence in the Criminal Case No. 3613 of 2009 of the Chief Magistrate's Court at Mombasa – R.M. Mutoka – CM)

JUDGMENT

The appellant **SAMUEL NDORO** was convicted on his own plea of guilty on a charge of trafficking in Narcotic drugs contrary to section 4(a) of the Narcotic Drugs and Psychotropic substances control Act No. 4 of 1994 and was sentenced to serve six (6) years imprisonment.

He has now appealed against that Sentence. His grounds are that he pleaded guilty to the charge at the time of plea and that he was treated as a first offender and he gave good reasons to his mitigation. He is of the view that the Sentence to six (6) years imprisonment was harsh and excessive.

A perusal of the Sentencing notes shows that the trial magistrate had called for a Probation Report before Sentencing which report was not favourable to placement on probation.

Section 4 of the Narcotic drugs and Psychotropic substances (Control) Act provides,

“Any person who traffics in any narcotic drug or substance or any substance repressed or held out by him to be a narcotic drug or substance shall be guilty of an offence and liable

(a) In respect of any narcotic drug or psychotropic substance to a fine of one million shillings or three times the market value of the narcotic drug or psychotropic substance whichever is the greater, and in addition, to imprisonment for life”.

In the present case the Appellant was Sentenced to six years imprisonment which in my view was a very lenient Sentence bearing mind, the prevalence of drug related cases in the region.

I find no need to disturb the sentence meted out by the trial magistrate. This appeal against sentence fails and is dismissed accordingly.

Judgment read, dated and delivered in open court this **8th** day of **November, 2012**.

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M. MUYA
JUDGE

In the presence of:-

Mr. Gioche for the state

Mr. Musundi – Court clerk

Accused