

REPUBLIC OF KENYA

High Court at Nakuru

Criminal Appeal 302 of 2011

SAITOTI LANKAS.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

Saitoti Lankas, the appellant herein, was on 29/11/2011, convicted of the offence of theft, contrary to **Section 275** of the **Penal Code** and was sentenced to 3 years imprisonment. He filed this appeal challenging both the conviction and sentence. However, at the hearing of the appeal, the appellant abandoned the appeal on conviction and proceeded to seek leniency on the sentence. Ms Idagwa, learned counsel for the State opposed the appeal on grounds that the appellant is habitual offender and the court meted out a deterrent sentence.

Before the appellant was sentenced, the prosecution produced the appellant's previous criminal records. On 16/4/2010, he was convicted and sentenced to serve 9 months imprisonment by the Senior Resident Magistrate, Narok, for conveying suspected stolen property in CR. 762/09. On 7/6/2011, he was sentenced to serve 2 years imprisonment by the Senior Principal Magistrate, Narok for stealing, in CR. 305/11, and was still serving sentence at the time of the conviction.

The appellant has not given any reason as to why the court should reduce his sentence. I have taken into account the fact that the trial court considered that the appellant had committed two previous offences of the same kind. It is obvious that the sentences that were imposed earlier on did not help in his rehabilitation. The three offences have been committed within two years' time. He is not remorseful and in my view, he has not been rehabilitated. The magistrate exercised her discretion fairly in imposing the maximum sentence which is a deterrent, in light of the previous convictions. For the above reasons, I find no good grounds adduced to warrant this court to interfere with the said sentence. I dismiss the appeal and confirm the sentence.

DATED and DELIVERED this 7th day of December, 2012.

**R.P.V. WENDOH
JUDGE**

PRESENT:

The appellant – in person
Mr. Omwenga for the State
Kennedy – Court Clerk