

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET
REVISION CASE NO. 10 OF 2011

REPUBLIC PROSECUTOR

VERSUS

RODGERS KIBIWOTT KIPSANG ACCUSED

(Being Appeal against sentence from Chief Magistrate's Court delivered on 3rd May, 2011 by Hon. I. Maisiba – Resident Magistrate)

R U L I N G

The learned Chief Magistrate acted correctly under section 363(1) of the CPC and forwarded this matter to this court for purposes of revision of the sentence imposed by the learned Resident Magistrate in CMCC. No.1577 of 2011.

Having perused the necessary record, it is notable that the learned Resident Magistrate acted beyond his jurisdiction by imposing a life sentence whereas section 7(2) (a) of the CPC provides for a maximum sentence which may be imposed by a Resident Magistrate i.e. Seven (7) years imprisonment subject to the proviso provided under section 7(1) (b) of the CPC which clearly excludes section 332(a) of the penal code.

Consequently and in pursuant to section 364 of the CPC, this court now sets aside the life imprisonment sentence imposed in the aforementioned CMCC. No. 1577 of 2011 and in substitution thereof imposes a sentence of three (3) years imprisonment which would be appropriate for a first offender.

Ordered accordingly.

J. R. KARANJA
JUDGE
27/5/2011