

REPUBLIC PROSECUTOR

VERSUS

PATRICK CHEGE GAKAKHUACCUSED

RULING

The applicant pleaded guilty to the offence of stealing by servant contrary to Section 281 of the Penal Code. On conviction he was sentenced to three and half years imprisonment. He did not file an appeal but elected to file this application seeking a review, alteration and or reversal of the sentence imposed by the learned trial magistrate.

The offence with which the applicant was charged was serious in that, he was placed in a position of trust which he breached. For a period of four months he did not account for Kshs. 204,665/= being proceeds received by him as the salesman of his employer. I note that not a single cent of this money was recovered. The facts which he admitted show that he was asked about this money but did not give a satisfactory account of the same. I would have believed his mitigation had he given that information to his employer. As rightly observed by the learned trial magistrate this offence attracts a sentence of seven years imprisonment. The sentence of three and half years imprisonment imposed upon the applicant in my view was legal and merited in the circumstances of this case.

I find no reason whatsoever to interfere with the same. Accordingly this application is hereby dismissed.

Dated, signed and delivered at Nairobi this 26th day of June , 2011.

A. MBOGHOLI MSAGHA

JUDGE