



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT KISII**

**Criminal Appeal 85 of 2009**

**(From original conviction and sentence of the SRM's Court at Nyamira in criminal case No. 298 of 2008 – J. Macharia, RM)**

**BETWEEN**

**CAROLINE NYABOKE ..... APPELLANT**

**VERSUS**

**STATE ..... RESPONDENT**

**JUDGMENT**

The appellant was sentenced to 10 years' imprisonment after being convicted of possession of narcotic drugs contrary to **section 3 (1) and 3 (2) of the Narcotic and Psychotropic Substances (Control) Act No. 4 of 1994.**

The particulars of the offence were that on the 19<sup>th</sup> day of April, 2008 along Kisii-Nyamira Road in Nyamira District she was found in possession of 20 kilogrammes of Cannabis Sativa (Bhang).

Though she appealed against conviction and sentence, during the hearing of the appeal she abandoned the appeal against conviction and argued against sentence only.

The appellant was a first offender. In my view the sentence that was handed down is rather harsh. I set aside the sentence of 10 years' imprisonment and substitute therefore a sentence of 5 years' imprisonment with effect from 18<sup>th</sup> August, 2008 when she was sentenced.

**DATED AT KISII THIS 15<sup>TH</sup> DAY OF JUNE, 2010.**

**D. MUSINGA**  
**JUDGE.**

**15/6/2010**

Before D. Musinga, J.

Mobisa – cc

Mr. Gitonga for the state

Appellant – present

**Court:** Judgment delivered in open court.

**D. MUSINGA**  
**JUDGE.**