



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**CRIMINAL APPEAL 583 OF 2007**

**MICHAEL THIONGO NJOROGE.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

Michael Thiongo Njoroge was charged with offence of preparation to commit a felony contrary to Section 308 (1) Penal Code. There was count 11 being in possession of firearm certificate

Count I Preparation to commit a felony contrary to Section 308 of Penal Code.

Count II being in possession of narcotic drugs and psychotropic substances.

Count III Being in possession of ammunition.

Count IV being in possession of Narcotic drugs and psychotropic.

(v) failing to register contrary to Section 45(1) registration of persons Act.

The prosecution case was that PW1 was also a witness and an expert in ballistics. He is very highly trained in firearms ammunition and their components parts. He is at the CID Headquarters laboratory. He was registered to examine firearms and ammunitions in this case and was able to give evidence properly as per exhibits.

PW4 Police Officer prepared the exhibits accompanied with exhibit memo and completed the result and as a witness produced them to court.

Patrick Ochieng Nyaoke a Government Analyst is the one who on 12/10/06 examined cannabis sativa included in an envelope described as cannabis sativa in Act No. 4 of 1994. When the accused was put to defend himself he gave unsworn statement. He said on a certain day he met three officers whom he had collided with earlier. They warned him. 2 weeks later he met them. He was from drinking. PW5 Patrick Ochieng Nyaoke a Government Analyst. He examined 12/10/2006 and found there was cannabis sativa which was included in the envelope with name Michael Tjionga Njoroge inside there was paint material, cannabis sativa described Narcotic drug under Act No. 4/1994. The accused was put on his defence. He gave unsworn evidence. He said he stays in Satellite doing jua kali work. On a certain day he met three officers who he had collided with earlier. They warned him. 2 weeks later he met them. He was from drinking. He was in a public place and they arrested him. He added the witnesses contradicted themselves.

PW3 he had a pistol Taurus. He had a roll of bhang and 1 bottle containing tobacco. PW4 a police officer on 20/9/2006. He prepared exhibit memo.

PW5 Patrick Ochieng Nyaoke a Government Analyst examined there was cannabis sativa which is included on the envelope with name Michael

Tjionga Njoroge. Inside there was plait material cannabis sativa described Narcotic drug under Act No. 4/1994. The accused was put to his defence. He gave unsworn evidence. He said he stays in Satellite doing jua kali work. On a certain day he met three officers who he had colluded with earlier. They warned him. 2 weeks later he met them. He was from drinking. He was in a public place and they arrested him. He asked the court to release him. The witnesses contradicted themselves. This is not so each was on his field.

The prosecution collected all the exhibits and sent the same to the Government Analyst who examined all the same and found them to be corresponding with what they were said to be.

The Appellant was found guilty as charged. The evidence by the witness not contradicted at all. The prosecution witnesses were all informers and the investigators are not allowed to identify their informers. The issue of sentence.

It appears reasonable considering the Appellant has a previous conviction of theft in a dwelling house.

I therefore do not find the appeal with merit and I dismiss the same.

Dated and delivered at Nairobi this 4th day of October 2010.

**J. N. KHAMINWA**

**JUDGE**