



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CRIMINAL APPEAL NO. 185 OF 2009

(From original conviction and sentence in criminal case No. 122 of 2008 of the Senior Resident Magistrate's Court at Maralal - {M. K. Nyarango - SRM} dated 18th June, 2009)

JANE LOKALE.....APPELLANT
VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The Appellant was charged and was convicted of the offence of giving false information to a person employed in the public service contrary to Section 129(b) of the Penal Code (*Cap. 63, Laws of Kenya*). The prosecution called 6 witnesses, and the court found the Appellant had a case to answer. The Appellant gave an unsworn statement.

The lower court after deliberating upon the evidence tendered by the prosecution and the Appellant's unsworn statement found the Appellant guilty as charged. The trial court called for a Probation Report which found the Appellant suitable for a Probation Order, and placed her on three year probation service.

The Appellant being aggrieved with both her conviction and sentence on probation appealed to this court against both the conviction and sentence.

Mr. Nyakundi learned Senior State Counsel opposed the appeal and submitted that the Appellant was properly convicted and sentenced.

I agree with submission by State Counsel. There is no merit in this appeal. The prosecution evidence is clear. The Appellant walked out of the bar (*Jadana Bar*) without settling her bill for a round of drinks she had offered to her friends. When followed by PW1 (*the Bar attendant*) the Appellant offered her a Nokia 1200 as security for the outstanding bar bill of Kshs 220/=. PW1 identified the phone, and was produced by PW6. In fact the phone Nokia 1200 belonged to PW3 and had been borrowed by the Appellant purportedly to make a call, but had walked away without paying her bar bill.

The Appellant was followed by PW1, the Bar attendant who wrestled the phone from the Appellant as security for payment of the bill. PW1's evidence was corroborated by other witnesses PW2, PW3 and PW4.

PW6 received the Appellant's report that she had been robbed of a Nokia 6060, and Kshs 14,000/= and implicated PW1. When PW6 carried his investigations he established that the report of the forgery was false and charged the Appellant with the offence of giving false information to a person employed in the public service contrary to Section 129(b) of the Penal Code.

Having considered the above evidence as well as the Appellant's unsworn statement, it is clear that the

only person who approached the Appellant on the date of the alleged robbery was PW1, and there was no evidence of any one else who allegedly ransacked her pockets as claimed in the unsworn statement. The Report of a robbery and loss of a Nokia 6060 and Kshs 14,000/= was completely false.

As I said, I find no merit in the appeal, I affirm the sentence by the lower court, dismiss the appeal herein.

Dated, signed and delivered at Nakuru this 3rd day of December 2010

M. J. ANYARA EMUKULE
JUDGE