



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI LAW COURTS)**  
**CRIMINAL APPEAL 264 OF 2006**

**PATRICK KITHI NGOMBO.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

The appellant, Patrick Kithi Ngombo, was convicted on his own plea of guilty to being in possession of narcotic drugs contrary to section 3 (1) of the Narcotic Drugs and Psychotropic Substances Control Act No. 4 of 1994 as read with section 2 (b) of the same Act and sentenced to five (5) years imprisonment with hard labour.

In the appeal before me, the appellant prays for a reduction of the sentence on the ground that it is manifestly excessive in the circumstances. In his mitigating grounds, he states that he pleaded guilty; that he was a first offender and that he has a family of school going children who depend on him for their livelihood.

The facts recorded by the Learned trial Magistrate, Andayi, then a Resident Magistrate, show that the appellant was found in possession of 54 ½ rolls of cannabis sativa and that he was a repeat offender. Besides, his mitigating circumstances were taken into account before the sentence was imposed. Taking into account all the facts and circumstances of the case, I am of the view that the sentence imposed by the trial court was neither harsh nor manifestly excessive in those circumstances. I find no merit in this appeal and accordingly order that the same be and is hereby dismissed.

**DATED AND DELIVERED AT MOMBASA THIS 27<sup>TH</sup> DAY OF JULY 2009.**

**F. AZANGALALA**

**JUDGE**

Read in the presence of:-

Mr. Onserio for the State and the Appellant in person.

**F. AZANGALALA**

**JUDGE**

**27<sup>TH</sup> JULY 2009**