

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

Criminal Appeal 89 of 2005

MONICA IGUNA GICASI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

Both appellants in Criminal appeal No. 89/05 and 94/05 were tried in one case Criminal Case No.943 of 2005 in Senior Resident Magistrate's Court at Siakago. They were charged with offence of stealing stock contrary to section 274 Penal Code and alternate count of handling stolen property under Section 322 (2) penal Code. Both appellants pleaded guilty and were convicted on own pleas of guilty and were sentenced to 5 years each imprisonment. The facts are that the complainant left his two bulls in the cattle shed in his home. In the morning he found the animals gone. He reported the matter to area assistant chief. A search was conducted and the bulls were recovered from appellants who were arrested and taken to police station. The appellants now say the sentence of 5 years imprisonment is harsh and excessive. It is to be considered that the maximum of this offence is 14 years imprisonment and the Appellants pleaded guilty thus saved court time and they were first offenders and that the animals were recovered and returned to the complainant and they were remorseful.

I find the sentence of 5 years is excessive in the circumstances the appellants are now serving 2nd year in jail.

In the circumstances I set aside sentence of 5 years imprisonment and substitute the same with imprisonment for 2 years from the date of conviction. The appeal is allowed to that extent.

Dated this 17th July, 2007.

J. N. KHAMINWA

JUDGE

17/7/2007

Khaminwa – Judge

Njue - Clerk

Mr. Kimathi

Appellant present

Read in open court.

J. N. KHAMINWA

JUDGE