

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NYERI

Criminal Appeal 239 of 1996

JOSPHAT KARINGI NDEGWA APPELLANT

VERSUS

REPUBLIC RESPONDENT

(Appeal from original Judgment and Conviction in Senior Resident Magistrate's Court at Karatina in Criminal Case No. 282 of 1993 dated 6th August 1996 by Mr. Kiarie – S.R.M. – Karatina)

J U D G M E N T

Josphat Karingi Ndegwa hereinafter referred to as the Appellant was tried and convicted by the Senior Resident Magistrate's Court at Karatina for the offence of stealing from a person contrary to section 279 (a) of the P.C. He was sentenced to serve 4 years imprisonment and to suffer 2 strokes of the cane.

Being dissatisfied he has now brought this appeal against both conviction and sentence. His main complaint is that the trial magistrate relied only on the evidence of the complainant and did not consider that the second witness was a daughter of the complainant and that the trial magistrate also failed to take into account that no investigations were carried out.

I have reconsidered and evaluated the evidence which was adduced before the trial magistrate.

The evidence was not that of a single witness but both the complainant and her daughter testified how the appellant grabbed the complainant's bag from her daughter and ran away with it and how he was chased and apprehended. This evidence was corroborated by the evidence of P.C. Charles Chesang who arrested the appellant at the scene and recovered the handbag. I am satisfied that the evidence adduced was sufficient to support the appellant's conviction.

As for the sentence, the same was not so manifestly excessive as to warrant the intervention of this court. I therefore find no merit in this appeal and dismiss it in its entirety.

Dated signed and delivered this 14th July 2006

H. M. OKWENGU

JUDGE