

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

Criminal Appeal 266 of 2004

[From Original Conviction and Sentence in Criminal Case No. 2212 of 2004 of the Chief Magistrate's Court at Nakuru –

G.C. Mutembei – S.P.M]

CONSOLATA ACHIENG ODONGO APPELLANT

VERSUS

REPUBLICRESPONDENT

JUDGMENT

The appellant, **Consolata Achieng Adongo** was charged with the offence of **trafficking in Narcotic drugs** contrary to **Section 4 (a)** of the **Narcotic Drugs and Psychotropic Substances Control Act No. 4 of 1994**.

The particulars of the charge are stated that on the 20th day of September 2004 at around 2.30 p.m. between Molo - Elburgon Railway Section in Nakuru district within Rift Valley Province was found trafficking in Narcotic drugs (*canabis sativa*) weighing 2 kilograms with a street value of Kshs.2,000/- while travelling from Kisumu to Nairobi aboard H.O.8 Kisumu – Nakuru passenger train (I).

The appellant was arraigned in court on 21st September 2004 whereby she was charged with the offence and pleaded guilty. She was thus convicted on her own plea of guilty and sentenced to serve six (6) years imprisonment.

The appellant has appealed against the sentence. She submitted that the sentence is excessive, she also recalled her mitigation to the trial court and her circumstances which was not taken into consideration by the trial court when the sentence of six (6) years was imposed.

The appellant submitted that her circumstances as the sole breadwinner of her family have been exacerbated by her incarceration. She pleaded that she has reformed during the time she has been in prison and promised to become a law abiding citizen and appealed for leniency.

I have carefully considered the circumstances of the appellant and the value of the drugs that were found in her possession was Kshs.2,000/-.

I am of the view that the appellant who was arraigned in court on 5th September 2004 and has remained in lawful custody ever since, that is adequate punishment for the offence committed. Her sentence is therefore commuted to the period already served. The appellant is hereby released from prison forthwith unless otherwise held for some other lawful case.

Judgment read and signed at Nakuru this 13th July 2006

MARTHA KOOME

JUDGE