



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU**

Criminal Appeal 290 & 291 of 2004

[From original conviction and sentence in Criminal Case No. 4452 of 2004 in the Senior Principal Magistrate's Court at Nyahururu T. M. MWANGI – S. R.M.]

REPUBLIC.....APPELLANT

VERSUS

AMOS WACHIRA KIBE.....RESPONDENT

JUDGEMENT

The appellant, **Amos Wachira Kibe** was charged with the offence of stealing by Agent contrary to section 283 of the penal code. The particulars of the charge stated that on the 15th day of June, 2003 at Kiwanja farm in Laikipia District within the Rift Valley Province being an agent on behalf of **Justus Karuthia** received Kshs.122,700/= in respect of sale of Plot No. 202 Laikipia West Farmers which had been entrusted to him by the said **Justus Karuthia Kingathia** to retain in safe custody.

The appellant was convicted on his own plea of guilty and sentenced on 18th October, 2004 to three years imprisonment. The appellant has only appealed against the sentence and during the hearing of this appeal, he sought the leave of the court to consolidate this appeal with Criminal Appeal, No. 290 of 2004. The appellant was granted the leave as the offence committed in Criminal appeal No. 291 of 2004 arise from the same transaction, the appellant was charged on the same day and he was convicted and sentenced to serve a jail term of three years in this case as well. The charge against the appellant in respect of Criminal Appeal No. 291 of 2004 is that of stealing by Agent contrary to section 283 of the penal code. The particulars of the charge stated that on the 7th day of November, 2001 at Kiwanja Village in Laikipia District within the Rift Valley Province, being an agent on behalf of **Michael Njuguna Kiruita** received Kshs.57,000/= in respect of sale of Plot no. 825 Laikipia West Farmers which had been entrusted to him by the said **Michael Njuguna Kiruita** to retain for safe custody.

The appellant was similarly convicted on his own plea of guilty and was sentenced to three years imprisonment. The appellant has only appealed against the sentence. The appellant relied on his written submissions during the hearing of this appeal. The appellant is pleading for the reduction of the sentence imposed upon him.

I have taken into account all the factors and circumstances of the appellant contained in the written submissions, the age of the appellant and the fact that he has served a period of over 2 years out of the 3 years term imposed upon him to serve.

Since the appellant submits that he has reformed and regretted the offence that he committed. I consider the period of over two years that the appellant has served in prison as adequate punishment for the

offences he committed. Accordingly I hereby reduce the sentence of 3 years and commute the same with the period already served.

The appeal is hereby allowed on sentence and accordingly the appellant is set at liberty unless otherwise lawfully held.

It is so ordered.

Judgement read and signed in Nakuru on 9th day of August, 2006.

MARTHA KOOME

JUDGE

9.8.2006

Before: Martha Koome

Mwiti: Court Clerk

Gumo for the state

Appellant present

Court:

Judgement read and signed in Nakuru on 9th August, 2006.

MARTHA KOOME

JUDGE