



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Criminal Appeal 1 of 2005

[From original conviction and sentence in Criminal Case No. 4878 of 2004 in the Senior Principal Magistrate's Court at Nyahururu H. M. NYABERI – R.M.]

REPUBLIC.....APPELLANT

VERSUS

FRANCIS KINUTHIA MAINA.....RESPONDENT

JUDGEMENT

The appellant was charged with the offence of theft of motor vehicle parts contrary to section 279 (c) of the penal code. The particulars of the charge stated that between the month of January, 2004 and 21st day of October, 2004, at Gwa kiongo Trading Centre in Nyandarua District of the Central Province, did steal from motor Vehicle KSD 913 Datsun Pick-up one car radio valued at kshs.5,000/= the property of **John Waweru Kabora**.

The appellant was convicted on his own plea of guilty on 14th December, 2004 and he was sentenced by the Resident Magistrate Nyahururu to five years imprisonment.

During the hearing of this appeal, the appellant pleaded with this Court to reduce the sentence imposed upon him. He urged the Court to consider that he has reformed since he was incarcerated in lawful custody and regrets the incidence of theft.

Mr. Koech the learned Senior State Counsel did not oppose his appeal on sentence.

I have taken into account the age of the appellant who appears to be a very young man, the fact that he served for a period of over two years out of the 5 years term imposed upon him. Since the appellant submits that he has reformed and regrets the offence that he committed, I consider the period already served in prison as adequate punishment for the offence committed.

Accordingly I hereby reduce the sentence of 5 years and commute the same to the period already served.

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

It is so ordered.

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

MARTHA KOOME

JUDGE

9.8.2006

Before: Martha Koome

Mwiti: Court Clerk

Gumo for the state

Appellant present

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

MARTHA KOOME

JUDGE