



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

Criminal Appeal 98 of 2003

SALAT HASSAN
APPELLANT

V E R S U S

REPUBLIC
RESPONDENT

(Being an Appeal against both conviction and sentence in

Criminal Case No. 230 of 2003, Before P.M. NDUNG’U

Principal Magistrate at Isiolo.)

J U D G M E N T

1. The Appellant herein Salat Hassan was convicted and sentenced within Isiolo R.M.’s Court Criminal Case Number 230/03 of the offences of office breaking and committing a felony contrary to s.306(a) of the Penal Code and the alternative charge of handling stolen goods contrary to s.322(2) of the Penal Code. It was alleged that he, was with others not before court, broke into an office within Sunrise Primary School in Isiolo Township on the 16.2.2003 and stole goods worth Ksh.40,000/- and in the alternative that he was found in possession of some of those stolen items. The Appellant took a plea on 5.3.2003 and admitted the main count and was found to be unsuitable to be placed under the Community Service Programme and was instead sentenced to serve four (4) years in prison and a further two (2) years which I cannot from the record understand as the latter sentence is unexplained.

2. The Appeal is against sentence only and I note from the report of the Community Service Officer filed in the trial court that the Appellant is said to be a habitual petty thief with connections to a gang operating within Isiolo Township. He however denied that he was part of the gang that was involved in the theft leading to his incarceration, an assertion he repeated to this court. He also added that he was only seeking a more lenient sentence as he was indeed found in a house where the stolen items were stored.

3. I have seen the record and note that the offence is minor and more likely than not the sentence imposed was influenced heavily by the Report filed by the Community Service Officer. My view is that the report itself is heavily influenced by perceived influence on the Appellant by one Alias Babji the chief suspect in the alleged theft. The Appellant has served close to the full term of his sentence and I think that there is good reason to let him go and re-invent his life, which is said to be the result of a broken family while he was very young.

4. In the event then I shall allow the Appeal or sentence and make an order that sentence shall be reduced to the one already served.
5. I am aware that the Appellant has a sentence in another case (Isiolo Cr. 232/03) and unless otherwise lawfully held, he can be released from custody in respect of the sentence involved in this Appeal arising from Isiolo Cr. Case 230/03 only.
6. Orders accordingly.

Dated, signed and delivered at Meru this 27th Day of September, 2006.

ISAAC LENAOLA

JUDGE

In the Presence of:

Appellant in Person

Mr. Muteti State Counsel for the State

ISAAC LENAOLA

JUDGE