

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Criminal Appeal 324 of 2002

(From original conviction and sentence in Criminal Case No. 243 of 2002 of the Resident Magistrate's Court at MOLO –P.C. BIWOTT)

GEORGE MURAYAAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant faced three counts, the first one being for burglary and stealing contrary to Section 304(2) and 279(b) of the Penal code for which he was convicted and sentenced to one year imprisonment.

He was also charged with stealing contrary to Section 275 of the Penal Code and he was also convicted and sentenced to one year imprisonment.

In count three, he was charged with escape from lawful custody contrary to Section 123 of the Penal Code and was convicted and sentenced to three years imprisonment. All the three sentences were to run concurrently. He urged the court to reduce the sentences. With respect to count three the appellant pleaded guilty and in mitigation he told the trial court that he escaped from custody to avoid beatings.

Mr. Koech, the learned State Counsel did not oppose the appeal. The appellant was a first offender. He has been in custody since February 2002.

I believe he has been punished sufficiently and so I will allow the appeal on sentence and reduce the same to the period already served. The appellant should be set at liberty unless otherwise lawfully held.

DATED, SIGNED & DELIVERED at Nakuru this 8th day of March, 2005.

D. MUSINGA

JUDGE