

IN THE HIGH COURT OF KENYA AT MOMBASA
Criminal Appeal 168 of 2004

KATOI KAHINDI TSUTSU APPELLANT
VERSUS
REPUBLIC RESPONDENT

J U D G E M E N T

The appellant pleaded guilty to stealing a cow valued at Sh. 9,500/= He was convicted on his own plea. The cow was recovered by the complainant. He was a first offender. He has a family. The sentence for this offence is maximum 14 years (Section 278.)

In this case a sentence of 10 years imprisonment is harsh in the circumstances where the appellant has pleaded guilty saving court time and the stolen cow was safely returned to the owner.

The appellant deserves leniency. He is a young person. I find the sentence of imprisonment harsh and excessive.

I set the same aside and substitute a sentence of imprisonment with an unconditional discharge.

He shall be set free forthwith.

J KHAMINWA
JUDGE
18TH JULY 2005