

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

Criminal Appeal 172 of 2003

PHILIP K. LANGAT.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant, Philip Kipkorir Langat, was charged with the offence of stealing stock contrary to **Section 278 of the Penal Code**. The particulars of the offence were that on the night of the 8th and 9th April 2003 at Ainamoi village, Olenguruone, Nakuru District, the appellant together with another not before court, stole one cow valued at Kshs 12,000/=, the property of Bernard Kipkurui Langat. The appellant pleaded guilty to the charge when he was arraigned before the trial magistrate's court. He was convicted on his own plea of guilty and sentenced to serve four years imprisonment.

The appellant was aggrieved by his conviction and sentence and has appealed to this court.

At the hearing of the appeal, although the appellant had appealed against both conviction and sentence, he abandoned his appeal against conviction. Instead, the appellant pleaded for the leniency of the court on sentence. He submitted that he had been in prison since the 14th of April 2003 when he was convicted and sentenced by the trial magistrate. In his view, he had been sufficiently punished. While in prison, he says he has reformed and had further trained to be a carpenter. He had even completed his Grade I tests. He stated that he was ready to be a useful member of the society and would not engage in criminal activities. He urged the court to reduce his sentence to the period already served. Mr Koech, Learned State Counsel did not have anything to say as regard the sentence of the appellant. He left the issue to the court.

I have perused the proceedings of the lower court. Although the appellant had faulted the trial magistrate for convicting him on what he stated was an equivocal plea of guilty, in my considered view, the appellant rightly chose to abandon his appeal against conviction. The plea as taken by the trial magistrate was unequivocal. The said plea of guilty was properly taken and therefore the appellant's conviction on his own plea of guilty cannot be faulted. On the issue of sentence, the appellant appeared to this court to be remorseful. He has admitted his mistake and during his incarceration in prison, he had taken measures to train and gain knowledge of a useful trade. The appellant came across as someone who has seen the folly of crime and has reformed his behaviour.

I have considered the submissions made by the appellant. I have also considered the fact that the appellant has already served two years and three months of the four years sentence imposed. In the circumstances of this case, I agree with the appellant that the period already served is sufficient punishment for the appellant. He has learnt his lesson and is ready to integrate and become a useful member of the society. His sentence is therefore commuted to the period already served. The appellant is thus ordered set at liberty from prison unless otherwise lawfully held.

DATED at NAKURU this 13th day of July 2005.

L. KIMARU

JUDGE