

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAKURU

Criminal Appeal 34 of 2005

SAMUEL MWANGI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant, Samuel Mwangi, was charged with the offence of transporting forest produce contrary to Section 8(1)(a) as read with Section 14(1)(i) of the Forest Act (Cap 285 Laws of Kenya). The particulars of the charge were that on the 25th of January 2005 at Elburgon, in Nakuru District the appellant was found transporting four tonnes of cedar posts valued at Kshs 100,000/= in motor vehicle registration number KAL 030J Mitsubishi lorry without a permit from the Chief Conservator of forests. The appellant pleaded guilty to the charge. He was convicted on his own plea of guilty and sentenced to pay a fine of Kshs 100,000/= or in default to serve three years imprisonment. The appellant was aggrieved by the sentence imposed and has appealed to this court.

This court considered the plea raised by the appellant in the submissions before this court and the applicable law. In the considered view of this court the said sentence imposed by the trial magistrate was excessive in the circumstances considering the fact that the appellant is a first offender. The said sentence is set aside and substituted by an appropriate sentence of this court. The appellant is fined Kshs 20,000/= or in default he shall serve three months imprisonment. It is so ordered.

DATED at NAKURU this 23rd day of November 2005.

L. KIMARU

JUDGE