



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MALINDI

Criminal Appeal 61 of 2004

**(FROM ORIGINAL CONVICTION KILIFI CR.CASE NO. 497 OF 2004 BEFORE
C.O.OBULUTSA SRM)**

PETER NJICHA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant who was charged jointly with another in the lower with the offence of stealing contrary to Section 279(b) of the Penal Code pleaded guilty and was sentenced to serve 4 years imprisonment.

It is this sentence that he has appealed against. For this court to interfere with that sentence, it has to be shown that the sentence was excessive and/or illegal.

The learned counsel for the respondent submitted that although the stolen item worth Kshs. 10,000/= was never recovered, a sentence of 4 years was rather high.

I have considered the appeal and the above submissions.

An offender under Section 279 (b) is liable to imprisonment for a term of 14 years if found or having pleaded guilty, a four (4) year sentence in the circumstances is not, in my opinion, excessive. It was certainly within the limits provided by the law. I find no basis to interfere with the sentence.

The appeal is dismissed.

Dated and delivered at Malindi this 8th day of November, 2005.

W.OUKO

JUDGE

8th November, 2005

Coram

W. Ouko

Judge

Mr.Ogoti for state appellant – present

CC: Gladys

Judgment delivered.

W.OUKO

JUDGE