

Julius Kiprotich Soi v Republic

REPUBLIC OF KENYA

High Court, at Kericho February 26, 2004

Musinga Ag J

Criminal Appeal No 44 of 01

The appellant and a co-accused were jointly charged with the offence of stealing stock contrary to section 278 of the penal code.

They were tried and the appellant was convicted and sentenced to serve five years imprisonment with two strokes of the cane while his co-accused was acquitted. The reason given by the trial court for acquitting the appellant's co-accused was that he had innocently purchased the stolen cow from the appellant not knowing that the appellant had stolen it.

The appellant filed an appeal against the conviction and sentence. He argued that since his co-accused is the one who was found with the stolen cow, he (the appellant) should not have been convicted. He said that among the prosecution witnesses was a man and his wife and that was prejudicial to his case but he did not state how.

The learned State Counsel Mr. Koech opposed the appeal saying that the accused was properly convicted, six prosecution witnesses having testified. He offered no defence at all and so the prosecution case was unchallenged. He submitted that PW 3 witnessed the appellant selling the stolen cow.

I have gone through the proceedings and judgment and I am satisfied that the appellant was properly convicted. The sentence meted out was also proper, it is not excessive, considering that the prescribed maximum sentence for the offence is fourteen years. I therefore confirm the conviction and sentence and dismiss the appeal.