

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL APPEAL NO.52 OF 2003

(Being an appeal from original conviction and Sentence in Criminal Case

No.2879 of 2003 of the Chief Magistrate's Court at Mombasa)

GEORGE OTIENO OCHIENG ===== APPELLANT

VERSUS

REPUBLIC ===== RESPONDENT

J U D G M E N T

The appellant was charged, tried and convicted of stealing contrary to Section 275 of the Penal Code. Thereafter he was sentenced to 2 years imprisonment and he has since lodged an appeal at this Court against his conviction and the sentence.

As correctly found by the learned Magistrate, PW2 told the trial Court that the people who got both motor vehicles jumped out and ran away into different directions but he followed one of them the appellant. PW2 said that PW5 another watchman joined him and they chased the man until he jumped over the fence into the Church compound and was arrested by PW3 a watchman at the Church. Both PW2 and PW5 did not lose sight of him while they gave chase. He was therefore convicted on sound evidence.

The sentence of 2 years for the offence of theft is not harsh and manifestly excessive in the circumstances.

The appeal is therefore dismissed.

Dated and delivered this 17th February, 2004.

B. K. TANUI

JUDGE

