

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU
CRIMINAL APPEAL CASE NO.27 OF 2004

LUCY NGINYA PAUL.....APPELLANT
VERSUS
REPUBLICRESPONDENT

JUDGMENT

1. The Appeal herein is against sentence only. The Appellant was convicted on her plea of guilty and sentenced to serve five (5) years imprisonment. The charge that she faced was that of being in possession of Cannabis Sativa Contrary to Section 3(1) (2) (a) of the Narcotic Drugs and Psychotropic Substances Control Act No. 14 of 1994. She was actually found to be in possession of thirty (30) rolls of Cannabis Sativa.
2. Counsel for the Appellant argues that the Appellant is a young woman of 27 years and has three young children. She is a single mother and the sentence meted against her is too harsh and excessive in the circumstances. Counsel for the State thinks otherwise but concedes that she is a young person and that is a mitigating factor.
3. The Appellant was convicted and sentence on 3.3.2004 on her own plea of guilty. Whereas in ordinary circumstances, I should have upheld the sentence, I agree that the mitigating factors should be looked into to see whether the sentence was excessive. The Appellant it is generally agreed was a peddler of the bhang and not a user. I have had sight of a copy of the Appeal she filed in person wherein she said that the bhang belonged to someone else. With young children and she being a young person as well, I should be lenient and allow the Appeal to give her a chance to restart her life.
4. I shall reduce the sentence to the period served and order the release of the Appellant unless she is otherwise lawfully held.

Orders accordingly.

Dated and delivered in open court on this 25th day of November 2004.

I.LENAOLA

AG. JUDGE

Mr Mogusu for Appellant

Mr. Omwega for Republic.

I.LENAOLA

AG. JUDGE