

REPULIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPLICATION NO. 996 OF 2002

OLIVER KANGWANA SHIVAMBOAPPLICANT

VERSUS

REPUBLICRESPONDENT

J U D G M E N T

The appellant filed an appeal against both the sentence and conviction meted out against him for an offence of house breaking and stealing contrary to Section 304(1) and S.27a(b) of the Penal Code of sentence of 3 years imprisonment plus 3 strokes of the cane was handed down against the appellant by M/s Mwangi a Principal Magistrate Nairobi. At the time of arguing the appeal the appellant abandoned his appeal against conviction. He reiterated his appeal against sentence duly and sentenced for leniency. Mr. Munda for the State agrees that the sentence was rather too harsh for a first offender. I have considered the offence for which the appellant was convicted including the value of this stolen property.

In my considered view of sentence of 3 years imprisonment plus 3 strokes of the cane is rather harsh on the appellant. Using my own considered discretion I reduce the sentence to one of eighteen months upon sentence together with one stroke of the cane. It is so ordered.

R.M. MUTITU

JUDGE

9.1.2003

Delivered, dated and signed in open court in the presence of the appellant and in the presence of Mr. Okello for the State.

R.M. MUTITU

JUDGE

9.1.2003

