



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**CRIMINAL APPEAL NO.170 OF 2001**

*(From original conviction and sentence in Criminal Case No.970/200 of the Senior Resident Magistrate's Court at NAROK –W.O. LICHUMA(S.R.M.)*

**BARNABAS OMORI.....APPELLANT**  
**VERSUS**  
**REPUBLIC.....RESPONDENT**

**J U D G M E N T**

The Appellant BARNABAS OMORI OMAIKO pleaded guilty to two counts. Count One being of CULTIVATING PROHIBITED PLANTS contrary to section 6(a) of the Narcotics Drugs and Phychotropic Substances Control Act.

Count 2 was UNLAWFULLY BEING IN POSSESSION OF NARCOTICS DRUGS contrary to Section 3(1) of the same Act. He was convicted and sentenced to five years imprisonment in the first count and eight years imprisonment in the second count. In his submissions he urged court to reduce the term of imprisonment imposed on grounds he had pleaded guilty to the charge and also on account of his family which solely depended on him. He also submitted that since the imprisonment he had reformed and pledged that he would never repeat the offence.

The Learned Counsel for the State opposed the appeal submitting that the offence was serious and sentences were lenient. I did consider the submission by both sides. Indeed the offence was serious. However, the amount of plant cannabis sativa involved in count 2 was not so much as to call for such a severe sentence. In addition the Appellant was treated as a first offender. I will allow the appeal on sentence by reducing the imprisonment in count 1 to four years and in count 2 to four years. Both terms should run concurrently from date of sentence.

**Orders accordingly.**

**Dated and delivered at Nakuru this 21st day of May, 2003.**

**JESSIE LESIIT**  
**JUDGE**