

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL APPEAL NO.183 OF 2001

*(From original conviction and sentence in Criminal
Case No.776/2000 of the Senior Resident Magistrate's
Court at MOLO*

BERNARD MOMANYI MOKUA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The Appellant BERNARD MOMANYI MOKUA has appealed against the sentence imposed against him by SRM, Molo in which he was sentenced to five years imprisonment and five strokes of the cane. He had been convicted of an offence of STORE BREAKING AND STEALING contrary to Section 306(a) of the Penal Code.

The appeal is opposed on grounds maximum sentence provided for under the Section is 7 years.

I did consider the appeal.

The Appellant was a first offender.

The court did not consider that all the stolen items were recovered and that the Appellant is a young person. He is remorseful for the offence. I also considered he was in custody for 8 months before the sentence which the lower court did not consider. I will allow the appeal in the circumstances by reducing the sentence to the period already served. The Appellant be set free unless otherwise lawfully held.

JESSIE LESIIT

JUDGE

Read, signed and delivered this 5th day of June, 2003.

Appellant present

Mr. Onderi for State absent.

JESSIE LESIIT

JUDGE

