

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

APPELLATE SIDE

CRIMINAL APPEAL NO.274 OF 2001

**(Being an appeal from Original Conviction and Sentence in Criminal case
No.2263 of 2000 of the Snr. Resident Magistrate's Court at Kwale –L.N.
Mbatia, SRM)**

KENNEDY JAKONA NDOLO APPELLANT

Versus

REPUBLIC RESPONDENT

JUDGMENT

The Appellant admitted the offence in his defence in the lower court. He was sentenced to 4 years imprisonment. The offence he is charged with is serious. Considering that he admitted the offence and that he is a first offender the sentence of 4 years is harsh and excessive. He is a young man who has dreams of undertaking studies abroad. He should be given a lenient sentence to enable him to reform. He has been in jail since February 2001.

In my view this court is entitled to review the sentence to give the appellant a sentence which would enable him to start his life afresh. In my view a sentence of 1 ½ years is reasonable in the circumstances. I therefore set aside the sentence of 4 years and substitute the same with one of imprisonment for 1 ½ years from the date of conviction. The State has not given notice of intention to enhance the sentence by including corporal punishment and therefore I shall not deal with that requirement. The appellant shall therefore serve 1 ½ years from the date of conviction.

Appeal is allowed to that extent.

Dated at Mombasa this 11th Day of March, 2002.

J. KHAMINWA

COMMISSIONER OF ASSIZE