



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**APPELLATE SIDE**  
**CRIMINAL APPEAL NO.30 OF 2002**

**(Being an appeal from Original Conviction and Sentence in Criminal Case No.83 of 2002 of the Snr. Principal Magistrate's Court at Mombasa –J.S.**

**Mushelle, SPM)**  
**HAMISI SHABAN ..... APPELLANT**  
**VERSUS**  
**REPUBLIC ..... RESPONDENT**  
**JUDGMENT**

The Appellant pleaded guilty to the offence charged under Section 275 Penal Code.

He was a first offender. He was remorseful and asked for forgiveness. The maximum sentence for this offence is 3 years imprisonment. The trial Magistrate applied maximum sentence. For a first offender who had pleaded guilty thus saving court's time and who is remorseful the maximum sentence is not appropriate. The court expects that the appellant will learn and reform and a short sentence is in order.

I find the maximum sentence in this case not appropriate. I set aside the sentence of 3 years imprisonment and substitute the same for imprisonment for a period of 12 months from date of first conviction.

**Dated at Mombasa this 13th Day of May, 2002.**  
**J. KHAMINWA**

**COMMISSIONER OF ASSIZE**