

Isaiah Wanjala Shiundu v Republic

REPUBLIC OF KENYA
High Court, at Kericho September 23, 2002
Ondeyo J

Criminal Appeal No 16 of 2002
(From original Kericho P. M. Criminal Case No. 3865/2001 the original conviction and sentence of Mrs. R. Ngetich – R.M)

September 23, 2002, Ondeyo J delivered the following Judgment.

The appellant was convicted on his own plea of guilty and sentenced to five (5) years imprisonment for the offence of being in possession of cannabis sativa contrary to section 3 (1) read with section 2 (a) of the narcotic drugs and psychotropic substances control act No. 4 of 1984.

He appeals against sentence.

On the material day i.e. 23rd December, 2001 at about 10.00 a.m. at Kapsongoi barrier, the appellant who was carrying something in a bag was stopped by security guards attached to A.H.P company. The bag was searched and found to contain six stones (6) of cannabis sativa. He was arrested and charged. The six stones (samples) were sent to the Government Chemist and found to be cannabis sativa.

This was a large quantity although its value was not shown, the appellant clearly intended to sell it.

The devastating effects of cannabis sativa on its consumance cannot be ignored by the court. Man youths have been destroyed because of smoking cannabis sativa.

The offence is therefore very serious and a deterrent sentence was called for in view of the quantity.

A sentence of five years was called for. The appellant was obviously going to sell six stones so that the same is consumed by others.

Taking this into account, I do not think that a sentence of 5 years was in the circumstances harsh or excessive.

I dismiss appeal against sentence.

Right of appeal 14 days (on the law).