

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
APPELLATE SIDE
CRIMINAL APPEAL NO. 107 OF 2001

**(From the Original Conviction and Sentence in Criminal Case No. 185 of 2001 of the
Resident Magistrate's Court at Kaloleni –K. Muneeni, Esq., –R.M.)**

KALAMA NZARO MATATA..... APPELLANT
=V E R S U S=
REPUBLICRESPONDENT

J U D G M E N T

The appellant was charged with the offence of Store Breaking and committing a felony therein contrary to section 306 (a) of the Penal Code. He was sentenced to serve imprisonment of 2 years with 3 strokes of the cane. He appeals against sentence.

The value of the goods stolen from the complainants store were Kshs. 50,000/- and none were recovered. The appellant is a 1st offender. He pleaded guilty and thus saved courts time as well as spared the state the expenses of proving the charge through a lengthy trial.

The trial Magistrate before sentencing took into account the appellants tender age. He considered the fact that the appellant was a first offender. The maximum sentence available to him was seven years with corporal punishment. The learned Magistrate however, gave only two years and 3 strokes. He did not break any principles of sentencing and he was mindful of all the factors before him including tender age.

I see no merit in this appeal. I therefore dismiss the same and confirm the sentence.

Dated and Delivered at Mombasa on 21st November 2001.

D. A. ONYANCHA

JUDGE