



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL APPEAL NO. 514 OF 1999

(From Original Conviction and Sentence in Criminal Case No. 109 of 1999

of the Principal Magistrate's Court at Kakamega)

VINCENT FUNDI IKOBWA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

These appeals are now consolidated. The appellants have abandoned their appeals against conviction and so the only issue before us is sentence. The learned counsel for the Republic agrees. There was full recovery of the stolen goods. Further Pw1 was an accomplice on whose behalf the appellants bore the heaviest brunt. It is also evident that the appellants suffer from life threatening ailments. Further to date, they have served about two and half (2½) years imprisonment. That is sufficient punishment.

We are inclined to allow this appeal on the following terms.

- (a) Death sentence set aside.
- (b) The sentence of imprisonment is reduced to the period already served. Plus one stroke of the cane.
- (c) Both appellants shall be released forthwith unless otherwise lawfully held.
- (d) Orders accordingly.

Dated and delivered at Nairobi this 19th day of November 2001.

MBOGHOLI MSAGHA

JUDGE

MBITO

JUDGE