



REPUBLIC OF KENYA



KENYA LAW
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**Sang v Republic (Criminal Appeal E002 of 2024)
[2025] KEHC 5016 (KLR) (20 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 5016 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
CRIMINAL APPEAL E002 OF 2024
GL NZIOKA, J
MARCH 20, 2025**

BETWEEN

VINCENT KIPROTICH SANG APPELLANT

AND

REPUBLIC RESPONDENT

SENTENCE

1. The appellant was charged with the offence of robbery with violence contrary to section 296(2) of the Penal Code (Cap 63) Laws of Kenya and an alternative count with the offence of handling stolen goods contrary to section 322 (1) (2) of the Penal Code. At the end of the trial he was found guilty and convicted on the offence of robbery with violence and sentenced to life imprisonment. However, he lodged an appeal against both conviction and sentence.
2. The appeal was heard and determined wherein the conviction on the main count was quashed and substituted with conviction on the alternative count of handling suspected stolen property contrary to section section 322 (1) as read with section 322 (2) of the Penal Code and the sentence of life imprisonment set aside.
3. Subsequently, the court ordered for a pre-sentence report which has been availed. Upon considering the same I note that it indicates that the appellant has no fixed place of abode in Naivasha where the offence was committed.
4. That he left his rural home at Kapsoit, Kericho over 4 years ago and has no regular contact with other family members after relocating to Naivasha. The DCIO officer stated the appellant could not lead them to his residence.
5. The report also indicates that he has a serious challenge with alcoholism. It is reported that the victim's family are opposed to sentence review as they are still to heal from the loss of the victim of crime and that all persons interviewed hold the view that an appropriate sentence under the law be meted out.



6. Pursuant to the aforesaid, the court has considered the same and the circumstances under which the offence was committed are considered. In that regard it suffices to note that, the appellant is said to have stolen the victim's bicycle while he was unconscious after the robbery.
7. Based on the aforesaid, it is evident that instead of helping the victim, the appellant pursued his selfish interest and took the bicycle to go and sell as scrap metal to get money as he testified. In my opinion that is act of greedy and very inhumane. Furthermore, the victim ended up dying and maybe had the appellant helped him, he would have survived the attack.
8. Be that as it may, the objectives of sentence are settled as follows: -
 - a. Retribution: To punish the offender for his/her criminal conduct in a just manner. It serves to deter future crime. Victims and society might feel satisfied that the criminal justice system is functioning well when they learn that the offender has received an appropriate sentence for their crimes, which raises trust in the criminal justice system
 - b. Deterrence: To deter the offender from committing a similar offence or any other offence in future as well as to discourage the public from committing similar offences. Thus it is divided into two components; individual and general deterrence. Individual deterrence is to dissuade the perpetrator with the objective to inflict a punishment severe enough to deter the offender from engaging in criminal activity. The convict is expected to be discouraged from committing crimes in the future as a result of the sentence. The society is the target of general deterrence. Other people are deterred from committing those offences by the punishment meted out to those who commit them.
 - c. Rehabilitation: To enable the offender reform from his criminal disposition and become a law-abiding person. It aims at changing the offenders and make it easier for them to reintegrate into society, through a variety of programs and treatments. It focusses on treating the root reasons of criminal behaviour, such as dependency, mental health conditions, or a lack of education. The objective is to give the offender the resources and assistance they need to upon release, become law-abiding citizens.
 - d. Restorative justice: To address the needs arising from the criminal conduct such as loss and damages sustained by the victim or the community and to promote a sense of responsibility through the offender's contribution towards meeting those needs. Any harm done to the victim may be compelled to be repaired or restored by the court. The goal is to put the victim back in his pre-crime status or position. The goal of restoration is to make up for any harm the perpetrator has caused the victim.
 - e. Restitution deters crime by financially penalizing the offender. It is somewhat like a civil lawsuit damages judgement and occurs when the court directs the offender to compensate the victim for any injury. Restitution may be required in cases of financial loss, property damage, and, in rare cases, mental suffering. It may also take the form of a fine to help defray part of the expense of the criminal investigation and punishment.
 - f. Community protection: To protect the community by removing the offender from the community thus avoiding the further perpetuation of the offender's criminal acts.
 - g. Denunciation: To clearly communicate the community's condemnation of the criminal conduct.
 - h. Reconciliation: To mend the relationship between the offender, the victim and the community.



- i. Reintegration: To facilitate the re-entry of the offender into the society.
 - j. Incapacitation's main purpose is to simply keep offenders outside of society so that everyone is safe from their potentially harmful actions. A person convicted of a crime should not be permitted to mingle with the general public if there is no assurance that they will not commit the same crime again. In certain civilizations, punishment takes the form of death sentence or it may entail a sentence of life in jail without the chance of release.
9. From the pre-sentence report, there is no indication that, the appellant's character has changed from the time he was arrested and subsequently incarcerated and that if released he will not be a danger to society neither can it be guaranteed that he will be safe if released. Consequently, I do not find this to be a suitable case for a non-custodial sentence.
 10. Having considered the period, the appellant was on trial and/or in custody after conviction, and the sentence provided for the offence of handling stolen goods under section 322(2) of the *Penal Code*. I sentence the appellant to serve five (5) years imprisonment. The sentence will run from the date of this order.
 11. It is so ordered.

DATED, DELIVERED AND SIGNED THIS 20TH DAY OF MARCH 2025.

GRACE L. NZIOKA

JUDGE

In the presence of:

The appellant present virtually

Ms. Chepkonga for the respondent

Ms. Hannah: court assistant

