



REPUBLIC OF KENYA



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**Mitei v Republic (Criminal Appeal E029 of 2024)  
[2025] KEHC 9652 (KLR) (4 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 9652 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ITEN  
CRIMINAL APPEAL E029 OF 2024  
JRA WANANDA, J  
JULY 4, 2025**

**BETWEEN**

**FRED KIPCHIRCHIR MITEI ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Appeal from the Judgment delivered on 24/07/2024 in Iten Senior Principal Magistrates Court Criminal Case No. E902 of 2023 by Hon. V. Karanja-PM)*

**JUDGMENT**

1. The Appellant (as 2<sup>nd</sup> accused), and another (1<sup>st</sup> accused-one Alex Kibet Kiptum) were charged with the offence of stealing stock contrary to Section 278 of the *Penal Code*. The particulars were that on 25/08/2023 at around 0050 hrs at Nyaru Village in Keiyo South Sub-County within Elegyo Marakwet County, jointly with others not before Court, they stole one cow valued at Kshs 60,000/-, the property of Samson Kibet. They were also charged with the alternative charge of handling stolen stock contrary to Section 322(1)(2) of the *Penal Code*. The particulars were that on the same date, time and place, jointly with others not before Court, otherwise than in the course of stealing, dishonestly received or retrieved a cow worth Kshs 60,000/- knowing or having reasons to believe it to be stolen property.
2. The 1<sup>st</sup> accused pleaded guilty and was convicted on the main charge and sentenced to serve 5 years imprisonment. The Appellant, on his part, pleaded not guilty and the case against him proceeded to full trial in which the Prosecution called 5 witnesses. At the close of the Prosecution case, the trial Court found the Appellant as having a case to answer and placed him on his defence. The Appellant opted to give unsworn Statement and did not call any witness. By the said Judgment, the Appellant was convicted on the main charge and, like the co-accused, also sentenced to serve 5 years imprisonment.
3. Dissatisfied with the decision, the Appellant filed this Appeal, in person, on 5/08/2024. He preferred 5 grounds, reproduced verbatim, as follows:



- i. That the learned trial Magistrate erred in both law and fact in failing to note that the evidence of identification was not proven to the required standard.
  - ii. That the learned trial Magistrate erred in law and fact as it failed to observe that the evidence tendered was inconsistent and uncorroborated.
  - iii. That the learned trial Magistrate erred in both law and fact by failing to accord the Appellant a fair trial.
  - iv. That the learned trial Magistrate erred in both law and fact by failing to record reasons for not believing the Appellant c/sec 80 and 124 of the Evidence Act.
  - v. That I pray to be present during the hearing of the appeal to enable me lodge more grounds.
4. The conduct of the Appeal was subsequently taken over on behalf of the Appellant by Messrs George Msonkule & Co. Advocates, who also then filed the Supplementary Grounds of Appeal dated 20/11/2024.

#### **Prosecution evidence before the trial Court**

5. PW1 was Samson Kibet Cheruiyot, the complainant. He testified that he lives in Nyaru, is a driver and the Appellant was a colleague. He then stated that on 25/08/2023 at 5:30 am, he went to his brother's house to pick a charger when he heard cows making noise but he assumed that they were on heat and so he went back to sleep. He stated that however, when he later went to milk the cows, he found one missing, a black Friesian valued at Kshs 60,000/-. He stated that he went to look for it at the river and notified his brother Collins (PW2), that a neighbour told him that he had spotted a vehicle, a Dyna, which was parked and that he saw a cow being loaded onto it. He testified that he went to Cheptriret area to look for it and he phoned one Philip and told him about the matter, he also phoned one Cess and they told him that they had seen the vehicle and a cow onboard, and they also told him that it is the Appellant who had taken the cow. He stated that he then phoned the Appellant, who introduced himself as Fred, and told him to return the cow but he refused.
6. He stated further that he later went with police officers and they found that the Appellant had sold the cow. He stated that he used the phone number 0722-330\*\*\*\* [particulars withheld]. In cross-examination, he stated it is the said Cess who gave him the phone number of the Appellant and who confirmed seeing the Appellant escorting the cow. He stated that the Appellant had paid Cess, and that the Appellant was sent the money after the cow had been settled. He stated further that the cow was photographed at the police station and was recovered in the Appellant's possession, that the Appellant had a client in town to whom he had sold the cow. In re-examination, he stated that the cow was recovered in Eldoret town and that the Appellant was selling it.
7. PW2 was Collins Kipkosgey, who testified that he, too, resides in Nyaru and that the Appellant sold his brother's (PW1) cow. He stated that on 25/08/2023, his said brother went to his place to borrow a charger but returned later and told him that his Friesian cow was missing. He stated that they launched a search for it and a neighbour told them that that he had seen a black cow being loaded onto a vehicle, and that he then reported the matter. He stated that the car was recovered in Eldoret and that the accused persons were found in possession of it and were arrested. He stated further that he accompanied his brother's wife (Beverly) to go and recover the cow and that they positively identified it. In cross-examination, he stated that Kibet saw the cow being loaded. He also insisted that he found the Appellant in Eldoret in possession of the cow, and that Cess told them that the Appellant was inside the vehicle.



8. PW3 was Philip Kiprop who stated that he is a cattle trader and that he knows the Appellant who trades in animals. He stated that the complainant (PW1) is his neighbour. He stated that on 25/08/2023, he was in Cheptiret market when he received a phone call from the complainant informing him that his cow had been stolen. He stated that the complainant sent him a photo of the cow, which he then circulated, and that his colleague notified him that the cow was at Kambi Turkana where it was indeed recovered. He stated further that the broker told them that it is the Appellant who had given him the cow to sell. In cross-examination, he stated that the broker had sold the cow at Kshs 47,000/- and sent Kshs 40,000/- to the Appellant through phone. He stated further that the witnesses at Kambi Turkana also named the Appellant as the person who had brought the cow to sell and that it was one Stanley who sold it. He stated further that the Appellant went with the 1<sup>st</sup> accused and claimed that the cow belonged to them.
9. PW4 was Stanley Kurgat, who testified that he is a cattle broker (he buy cows). He stated that on 25/8/2023 he was in Eldoret, Boma when at 8.00 am, the Appellant phoned and told him that he had a cow which he then brought, that it was black in colour and the Appellant told him that he was selling it for Kshs 50,000/-. PW4 stated that he found a buyer who had Kshs 40,000/-, and whose name was Laban Chepkurui, who eventually bought the cow for Kshs 43,000/-. PW4 stated that out of the money, he gave the Appellant Kshs 23,000/- and that Laban then sold the cow for Kshs 47,000/-. He testified that in the evening, he received a phone-call from police officers informing him that the cow had been stolen, and that the Appellant had reported the matter at Kaptagat. He stated further that the Appellant brought the person who sold him the cow. In cross-examination, he stated that the Appellant used to sell bulls and transport them to Nairobi.
10. PW5 was Police Constable Butali Chrispus, the Investigating Officer, attached at Kaptagat Crime Branch. He testified that he was on duty on 23/8/2023 when the complainant came to report that his Friesian Black Cow had been stolen. He stated that they then received a phone call informing them that the Appellant is the one who had the cow, that the Appellant then came to the station and reported that someone had said that he (Appellant) is the one who had the cow. He stated that the Appellant then told them that he knew where the cow was, at Eldoret. He stated further that the Appellant then took them to Boma area where they went to a bar where Alex Kiptum (co-accused) told them that it is the Appellant who had sold the cow for Kshs 60,000/- and that Alex Kiptum then took them to where they recovered the cow. He stated that they escorted the two back to the station and charged them with the offence, upon which Alex (co-accused) was convicted for 5 years. He testified that he took photographs of the cow and which photographs he then produced. He then identified the Appellant and stated that he knew him before as he had always been brought to the station as a cattle broker, and that he is a friend of officers at the station. In cross-examination, he stated that the Appellant refunded the money to the buyer via Mpesa. He insisted that the Appellant told them where the cow was, that the Appellant told his co-accused that he had sold the cow for Kshs 30,000/- and that the Appellant refunded Kshs 60,000/- at Eldoret. According to PW4, the Appellant's action of reporting the matter to the police was a cover-up.

### **Defence evidence**

11. As aforesaid, after the close of the Prosecution case, the Court found the Appellant as having a case to answer and put him on his defence. The Appellant then elected to give unsworn Statement and did not call any witness.
12. He testified that he is a cattle herder and that he was in the market when he saw a vehicle carrying cattle. He testified that he then went and bought the cow from Alex (1<sup>st</sup> Accused), that later, Stanley (PW4) bought the cow for Kshs 43,000/-. He then stated that he later received a phone-call from the



complainant who told him that the cow was his, and that PW3 also phoned and asked him about the same cow. He testified that he then went and reported the matter to the police, that they traced Alex's number, and later met Stanley (PW4) who returned the cow and he (Appellant) also returned the cash, but he (Appellant) was arrested.

### Hearing of the Appeal

13. The Appeal was directed to be canvassed by way of written Submissions. Pursuant thereto, the Appellant's Advocates filed the Submissions dated 16/12/2024. As for the Respondent (State), I have not come across any Submissions filed by or on its behalf of the Respondent.

### Appellant's Submissions

14. Counsel for the Appellant faulted the trial Magistrate or failing to note that the evidence of identification was not proved to the required standard. He submitted that the complainant (PW1) relied on hearsay evidence of an unidentified neighbour who told him that he had seen a Dyna vehicle which had been parked, and saw a cow being loaded in it, that the complainant, did not identify the Appellant, and did not see the Appellant load the cow into the vehicle. According to Counsel, the complainant purely relied on hearsay evidence as the alleged neighbour, one "Cess" failed to corroborate the evidence. He cited the case of *Subramanlum v Public Prosecutor (1956) WLR 965*. He also submitted that the complainant admitted to not having prior knowledge of the Appellant. He also urged that the prosecution did not produce evidence in form of communication between the complainant and the Appellant regarding the alleged phone call. He cited the case of *Kariuki Njiru & 7 Others v Republic*.
15. Counsel submitted further that there are several inconsistencies in the evidence tendered by the witnesses, that the complainant testified that the Appellant was "a colleague" implying that he knew him before but that he also then stated that he called the Appellant who introduced himself as "Fred" implying he did not know him. Counsel further submitted that PW2 testified that a neighbour told him that he had seen a black cow being loaded onto the vehicle and he thus went and reported the matter but on cross-examination, he indicated that "it was 5:00 am when the Appellant came to the station", and that PW2 also testified that he never met the Appellant at the station but rather in Eldoret. Counsel also submitted that none of the Prosecution Witnesses was able to identify the person driving the Dyna Lorry which bore no motor vehicle registration number. He submitted further that the evidence of PW3 is inconsistent and uncorroborated on the issue of payment since on cross-examination, he stated that the "broker" sold the cow at Kshs 47,000/- to the Appellant, and sent Kshs 40,000/- to the Appellant, and in another portion, he stated that he did not know how much the Appellant sold the cow for, and that PW3 also failed to produce evidence of receipts and messages to support his statements as proof of payment. Counsel also submitted that PW4 testified that he found a buyer, one Laban Chepkurui, who bought the cow at Kshs 43,000/- and he then gave the Appellant Kshs 23,000/-, and later Laban sold the cow for Kshs 47,000/-. He contended that this testimony deviates from what PW3 stated earlier. Counsel further submitted that PW4 did not produce evidence of payment of the monies and neither did Laban Chepkurui testify to corroborate his evidence. He also pointed out that PW5 stated that the 1<sup>st</sup> accused person, Alex Kiptum, told them that the Appellant had sold the cow for Kshs 60,000/-. According to Counsel therefore, the evidence of PW2, PW3, and PW5 is inconsistent and uncorroborated and thus should be treated as hearsay evidence, which is not admissible.
16. Counsel also faulted the trial Magistrate for not affording the Appellant a fair trial and cited Article 50 of *the Constitution* and also the case of *Natasha Singh v CB (15)*. He submitted that during mitigation, the Appellant requested the trial Court to give him an option of a fine but the trial Court went ahead



and convicted him for not being remorseful without giving reasons. According to him, the conviction was unfair, as it was purely based on emotions. He further faulted the trial Magistrate for failing to consider that the Prosecution did not tender a certificate of photographic evidence as required by the law under Section 78 of the *Evidence Act*. He submitted that PW5, the Investigating Officer failed to produce a Certificate of photographic evidence and thus the photographic evidence supplied during trial is irregular, and improper. In conclusion, on the submission of the Prosecution's failure to prove its case beyond reasonable doubt, he cited the case of Philip Nzaka Watu v Republic [2016] eKLR.

## Determination

17. As a first appellate Court, this Court is obligated to revisit and re-evaluate the evidence afresh, assess the same and make its own conclusions bearing in mind that the trial Court had the advantage of hearing and observing the demeanour of the witnesses (See Okeno vs. Republic [1972] E.A 32)
18. The sole issue raised in this Appeal is evidently "whether the Prosecution proved its case beyond reasonable doubt".
19. The charge of stealing stock is provided under Section 278 of the *Penal Code*, which is premised as follows:

"If the thing stolen is any of the following things, that is to say, a horse, mare, gelding, ass, mule, camel, ostrich, bull, cow, ox, ram, ewe, whether, goat or pig, or the young thereof, the offender is liable to imprisonment for a period not exceeding fourteen years."
20. On its part, Section 268 (1) of the *Penal Code* provides as follows:
  1. A person who fraudulently and without claim of right takes anything capable of being stolen, or fraudulently converts to the use of any person, other than the general or special owner thereof, any property, is said to steal that thing or property.
21. In this case, the Prosecution story is that on 25/08/2023, the complainant, Samson Kibet (PW1) was going to his brother's house, Collins Kipkosgei (PW2) at around 5.30 am to pick a phone charger when he heard his cows making noise but he assumed that they were simply on heat and thus went back to sleep, that he later went to milk the cows but found one, a black Friesen breed, missing. He stated that he spread word around upon which a neighbour told them that he had seen a lorry, Dyna make, parked nearby onto which a cow was loaded onto, that other people, namely, Philip (PW3) and one Cess told him that they had seen the lorry with a cow on board and told him that it is the Appellant who had taken the cow. The narrative is further that Cess gave the complainant the Appellant's number upon which the complainant phoned the Appellant and asked him about the missing cow but the Appellant denied having any knowledge about it. It is said that the Appellant around 9-10 am, the same morning, presented himself to the police station and complained that there were rumours that he is the one who had stolen the missing cow. It is said that the Appellant then told the police that he knew where the cow was. According to the Investigating Officer, (PW4) indeed, the Appellant, whom he knew as a cattle broker, took the police to Boma in Eldoret to one Alex Kiptum (the co-accused who pleaded guilty and was convicted) who however told them that he and the Appellant had jointly sold the cow for Kshs 60,000/-, and then took them to Kambi Turkana where they, indeed, recovered the cow at around 12.00 noon on the same day, and that the Appellant refunded the person who had purchased the cow.
22. The Prosecution's star witness was one Stanley Kurgat (PW4) who testified that he is a cattle broker, that on the said date, 25/8/2023, he was in Eldoret, Boma when at 8.00 am, the Appellant phoned and told him that he had a cow to sell and which he (Stanley Kurgat) then bought. According to Stanley, the cow was black in colour and the Appellant told him that he was selling it for Kshs 50,000/-, that Stanley



looked around for a buyer and eventually got one by the name Laban Chepkurui, who, after some haggling, eventually bought it at Kshs 43,000/- part of which he sent to the Appellant. He testified that however in the evening, he received a phone-call from the police informing him that the cow was a stolen one, and that the Appellant had reported the matter to them.

23. Assessing the testimonies above, I find them as corroborating each other. Although none of the witnesses saw the Appellant taking away the cow, from the complainant's home, Stanley Kurgat (PW4) testified that it is the Appellant who brought him the cow to sell. The testimonies above all place the Appellant right at the centre of the theft. It cannot all be mere coincidence. In any case, it has not been alleged that any of the witnesses had a prior grudge against the Appellant such that they all would have a reason to frame the Appellant for the offence. The complainant, immediately he discovered early in the morning that his cow was missing, frantically started making inquiries and various sources confided in him that it is the Appellant who had taken the cow and/or that the Appellant had been seen in the lorry that had taken the cow. Further, he was even given the Appellant's phone number which he used to call the Appellant but the Appellant denied any participation in the theft.
24. With all the above preliminary investigations pointing towards the Appellant as the perpetrator of the offence, is it not curious therefore that even before midday in the same morning, the Appellant was found (and he in fact admitted) to have indeed been in possession of the same cow at a marketplace, far away from the scene of the stealing? Is it not even more curious that a cattle trader (PW4) at the market readily stated that it is the Appellant who had brought him the cow that morning to sell for him? Can all this really be a mere coincidence? No it cannot.
25. I agree with the Investigating Officer (PW4) that the Appellant's belated frantic action of purporting to report the rumours circulating about his participation in the theft to the police was all a cover-up hatched by the Appellant after realizing that the "noose around his neck had tightened" and that he had been cornered. He had been caught re-handed and he knew it.
26. The Appellant, in his defence, basically admitted that, indeed, he was in possession of the cow at the market and that he was in contact with the cattle trader, Stanley Kurgat (PW4). He does not dispute that this was the same morning after the cow had been stolen. He however alluded that, as a cattle trader himself, he happened to be at the market and simply bought the cow at the market from Alex Kiptum, the co-accused, which he then resold for a profit, to Stanley Kurgat (PW4). He did not however explain how he concluded that the same cow that he had bought at the market was the same one that had been stolen from Samson Kibet (PW1) such that he reported that fact to the police. I have also studied the Appellant's cross-examination of Stanley Kurgat and observe that the Appellant did not ask him any relevant questions regarding Stanley Kurgat's claims of the Appellant's participation. Stanley Kurgat being the witness who directly implicated the Appellant, I would have expected the Appellant, if he was really innocent, to have strenuously put him to task. This, he did not do, and left the testimony of Stanley Kurgat wholly unscathed.
27. The Appellant's Counsel, in his Submissions in this Appeal, also conveniently avoided commenting on the matters I have pointed out above, including the damning testimony of Stanley Kurgat. Being the matters at the core of the case against the Appellant, I would have expected Counsel to specifically zero in on them and attempt to controvert. Instead, he dwelt on arguments that I basically found to be irrelevant. He spent much "space and ink" on striving to point out alleged inconsistencies and/or contradictions which, with due respect, I found to be wholly insignificant, minor and adding little value to the Appeal.



28. In respect to slight contradiction and excusable inconsistencies in testimonies, the Court of Appeal, in the case of Philip Nzaka Watu v Republic [2016] eKLR guided that:

“However, it must be remembered that when it comes to human recollection, no two witnesses recall exactly the same thing in the minutest detail. Some discrepancies must be expected because human recollection is not infallible and no two people perceive the same phenomena exactly the same way. Indeed as has been recognized in many decisions of this Court, some inconsistency in evidence may signify veracity and honesty, just as unusual uniformity may signal fabrication and coaching of witnesses. Ultimately, whether discrepancies in evidence render it believable or otherwise must turn on the circumstances of each case and the nature and extent of the discrepancies and inconsistencies in question.

In Dickson Elai Nsamba Shapwata & Another v The Republic, CR APP. NO. 92 OF 2007 the Court of Appeal of Tanzania addressed the issue of discrepancies in evidence and concluded as follows, a view we respectfully adopt:

“In evaluating discrepancies, contradictions and omissions, it is undesirable for a court to pick out sentences and consider them in isolation from the rest of the statements. The Court has to decide whether inconsistencies and contradictions are minor, or whether they go to the root of the matter.”

29. It is therefore only where inconsistencies or contradictions are so substantial and fundamental to the main issues in question such that they would create doubts in the mind of the trial Court that the same can be interpreted in favour of the accused person. In this case, as aforesaid, I do not find the alleged contradictions or inconsistencies pointed out by the Appellant’s Counsel, if any, to be sufficient to create doubt as to the Appellant’s guilt. A careful consideration of the record suggests, in my view, that some of the alleged contradictions could simply have been a result of the trial Magistrate, perhaps due to fatigue, or as a result of some of the witnesses not being very coherent or not expressing themselves clearly, inaccurately capturing some the words uttered or statements made by the witnesses.
30. I agree with the Appellant’s Counsel that one Cess, whom the complainant stated, was the one who told him that she had seen the Appellant escorting the cow onto the parked Dyna lorry, ought to have been called as a witness considering the significance of the revelations she is alleged to have made. It is true that the failure by the Prosecution to call critical witnesses may, in appropriate cases, entitle the Court to make an adverse finding against the Prosecution case.
31. On the above point, the East African Court of Appeal in the case of *Bukenya & Others vs Uganda* [1972] E.A.549 held that the prosecution must make available all witnesses necessary to establish the truth even though their evidence may be inconsistent, that the Prosecution has the right and the duty to call any person whose evidence appears essential to the just decision of the case and that where the evidence called is not, or is barely adequate, the Court may infer that the evidence of uncalled witness would have tended to be adverse to the prosecution.
32. There is however Section 143 of the *Evidence Act*, which provides as follows:
- “No particular number of witnesses shall, in the absence of any provisions of law to the contrary be required for the proof of any fact.”
33. Further, in the same *Bukenya* case (supra), and reiterated in the case of *Keter v Republic* [2007] 1 EA 135, the Court was also categorical that the Prosecution “is not expected to call a superfluity of witnesses” and that adverse inference will only be inferred if the evidence by the Prosecution is not or is



barely adequate. Adverse inference will not therefore be made where the evidence tendered is sufficient to prove the particular matter in issue or the entire case.

34. Since in my re-evaluation and analysis of the evidence in this case I have reached the finding that the evidence provided was adequate, the omission or failure to call the other potential witnesses is incapable of overturning the conviction.
35. In her Judgment, the trial Magistrate invoked the “doctrine of recent possession”. In regard to the application of this doctrine, the Court of Appeal, in the case of Paul Mwita Robi v Republic KSM Criminal Appeal No. 200 of 2008, held as follows:

“Once an accused person is found in possession of a recently stolen property, facts of how he came into possession of the recently stolen property is (sic) especially within the knowledge of the accused and pursuant to the provisions of section 111 of the *Evidence Act* Chapter 80, the accused has to discharge that burden.

36. This application by the trial Magistrate of the “doctrine of recent possession” in this case has not been challenged in this Appeal but even if she had not applied this doctrine, still I find the evidence against the Appellant to be too overwhelming to point to anybody else apart from the Appellant (most probably jointly with others) as the principal perpetrator of the offence.
37. This was a case of direct evidence as Stanley Kurgat (PW4) directly implicated the Appellant and his testimony was then corroborated by the testimonies of other witnesses. But even assuming that it was only “circumstantial evidence”, the evidence on record is too overwhelming and wholly inconsistent with the accused’s innocence. In the case of Ahamad Abolfathi Mohammed and Another v Republic [2018] eKLR, Court held that:

“However, it is a truism that the guilt of an Accused person can be proved by either direct or circumstantial evidence. Circumstantial evidence is evidence which enables a court to deduce a particular fact from circumstances or facts that have been proved. Such evidence can form a strong basis for proving the guilt of an Accused person just as direct evidence. Way back in 1928 Lord Heward, CJ stated as follows on circumstantial evidence in R v Taylor, Weaver and Donovan [1928] Cr. App. R 21: -

‘It has been said that the evidence against the Applicant is circumstantial. So it is, but circumstantial evidence is very often the best evidence. It is evidence of surrounding circumstances which, by intensified examination is capable of proving a proposition with the accuracy of mathematics. It is no derogation from evidence to say that it is circumstantial.’”

38. On the issue of the Prosecution failing to produce a Certificate of Photographic evidence, in accordance with the requirements of Section 78 of the *Evidence Act*, no objection having been raised before the trial Court and that issue not having been canvassed before it, my view is that it is not proper to introduce that issue at this appellate stage. In this finding, I am fortified by the Court of Appeal holding in the case of Evans Kalo Callos v Republic [2014] eKLR in which it found as follows:

“No objection was taken during or at any stage of the trial or subsequently to either the reference to the photographs by the witnesses or to the production of the photographs as evidence. There is nothing in section 78 of the *Evidence Act* that prevented the trial court from admitting the photographs into evidence. There is accordingly no merit in the appellant’s complaint that photographic evidence was improperly admitted into evidence.”



39. In any case, the probative value of the photographs to the case was, in my view, minimal since the identity of the cow was not disputed, it is also not disputed that it was a black Friesian in breed, that it belonged to the complainant, that it was stolen, that its disappearance was discovered that very morning, and that it was recovered on the same day even before midday.
40. In view of all the foregoing matters, I find no ground to fault the trial for reaching the finding that the Prosecution proved its case beyond reasonable doubt.
41. As the sentence imposed by the trial Court has not been challenged in this Appeal, I will leave it to rest.

**Final Orders**

42. For the stated reasons, I find this Appeal as one lacking merit and dismiss it.

**DELIVERED, DATED AND SIGNED AT ELDORET THIS 4<sup>TH</sup> DAY OF JULY 2025**

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**WANANDA J. R. ANURO**

**JUDGE**

Delivered in the presence of:

The Appellant (present virtually from Iten High Court)

Ms. Moronge for the Appellant

Ms. Mwangi for the State

C/A: Brian Kimathi

