



REPUBLIC OF KENYA



**Mosomi & another v Republic (Criminal Revision E036 of 2024)
[2024] KEHC 8360 (KLR) (8 July 2024) (Revision)**

Neutral citation: [2024] KEHC 8360 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL REVISION E036 OF 2024**

JK SERGON, J

JULY 8, 2024

BETWEEN

FRED MOSOMI 1ST APPLICANT

BRIAN MOMANYI 2ND APPLICANT

AND

REPUBLIC RESPONDENT

REVISION

1. Fred Mosomi and Brian Momanyi hereinafter referred to as the applicants were tried and convicted for the offence of stealing Contrary to Section 268 as read with Section 275 of the [Penal Code](#). Vide Kericho CMCRC. No. E1400 of 2023.
2. The particulars of the offence are that on 10th May, 2023 at Tulwet village, the applicants jointly stole a Solar Panel worth Kshs.12,375/=, the property of the County Government of Kericho. The duo were each sentenced to a fine of Kshs.20,000/= in default to serve 6 months imprisonment.
3. The proceedings relating to the file were placed before this court by the Deputy Registrar of this court pursuant to the Provisions of Sections 362 and 364 of the [Criminal Procedure Code](#).
4. I have perused the Court record of the Trial Court and it is apparent that the applicants underwent a full trial before they were convicted and sentenced. Under Section 362 of the [Criminal Procedure Code](#) this Court is entitled to exercise its power of revision to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of the proceedings.
5. Under Section 275 of the [Penal Code](#), the maximum sentence for the offence of theft is three (3) years imprisonment.



6. The Applicants were sentenced to a fine of Kshs.20,000/= in default to serve 6 months imprisonment. The default sentence for a person sentenced to pay a fine of more than Kshs.10,000/= is Twelve (12) months imprisonment. In this case, the default sentence meted out is six (6) months imprisonment.
7. It is clear in my mind that the sentence pronounced in this case is not harsh nor excessive. The same is lawful, regular and commensurate with the offence committed.
8. In the end I find no merit in the Revision. The same is dismissed and sentence meted out is hereby upheld.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 8TH DAY OF JULY, 2024.

J.K. SERGON

JUDGE

