



**Kibaso v Republic (Criminal Appeal E119 of 2022)  
[2024] KEHC 14923 (KLR) (7 November 2024) (Judgment)**

Neutral citation: [2024] KEHC 14923 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MIGORI  
CRIMINAL APPEAL E119 OF 2022  
A. ONG'INJO, J  
NOVEMBER 7, 2024**

**BETWEEN**

**NANCY AUMA KIBASO ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From original conviction and sentence by Hon. J. Munguti Senior Principal Magistrate in Chief Magistrate's Court at Migori in Criminal Case No. E. 202of 2022 delivered on 03/11/2022)*

**JUDGMENT**

1. The Appellant Nancy Auma Kibaso and her co-accused William Omollo Okwako were jointly charged in Migori CMC No. E202 OF 2022 with the offence of stealing stock contrary to Section 278 of the Penal Code.
2. The particulars were that William Omollo Okwako and Nancy Auma Kibaso on the 24<sup>th</sup> day of March 2022 at Marindi in Suna West Sub County Migori County within the Republic of Kenya stole 3 cows valued at Kshs. 150,000/= the property of Evaline Awuor Adhiambo. The trial Magistrate upon considering the evidence of the 5 prosecution witnesses and Appellants sworn statement and her co-accused persons unsworn statement found that the prosecution had proved its case beyond all reasonable doubt and the Appellant was convicted and sentenced to serve 7 years jail term.
3. The trial Magistrate said that the Appellant was not remorseful but considering she was a first offender meted 7 years jail term on 3.11.2022
4. The Appellant was aggrieved by the sentence and she petitioned the court vide No E119 of 2022 an undated petition in which she sought review of her sentence to be substituted with a non-custodial sentence or an option of a fine.



5. The Appellant filed submissions on 20.9.2024 and the Respondent was granted 14 days from 23.9.2024 to file and serve submissions but upto the time of writing this judgment they had not filed any.
6. In the Appellants submissions she said that she was a first offender and that she was remorseful and regretted the offence she committed. She said she was totally rehabilitated and had learnt from her mistake. She said the sentence meted against her was lawful but harsh and excessive and she sought that the same should be reviewed to the period she had already served.
7. Section 278 of the Penal Code provides for a penalty of imprisonment for a period not exceeding 14 years. The Appellant was granted only 7 years out of the possible 14 years after she was convicted.
8. This court finds that the sentence was lenient considering she benefit of Kshs. 50,000/= she accrued from the offence and the fact that the complainants stolen animals were not recovered. There is no reason to warrant interference with the trial magistrates exercise of discretion in sentencing the Appellant. The Appeal lacks merit and is dismissed.
9. The only thing that this court finds the Appellant to be entitled to is the remand period from 12.4.2022 when she was arraigned in court. The Appellants sentence should therefore run from 12.4.2022.
10. Orders accordingly.

**DELIVERED DATED AND ASSIGNED AT MIGORI THIS 7<sup>TH</sup> DAY OF NOVEMBER, 2024.**

**A. ONGI'NJO**

**JUDGE**

In the presence of:

