



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NANYUKI**

**CRIMINAL APPEAL NO 121 OF 2017**

**NGOLEKOU NANDUMA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

***(Appeal from original Sentence dated 03/07/2017 in***

***Maralal PM Criminal Case No 490 of 2017 – A Gachie, SRM)***

**J U D G M E N T**

1. The Appellant herein, **NGOLEKOU NANDUMA**, was convicted upon his own plea of **stealing stock** contrary to **section 278** of the **Penal Code**. On 03/07/2017 he was sentenced to serve five (5) years imprisonment.
2. Although the main thrust of the Appellant's appeal is with regard to the sentence, he has also complained that he did not know what happened during the proceedings before the trial court because, he alleges, he did not then understand Kiswahili, though at the hearing of this appeal he was fully fluent in Kiswahili, which he stated he has learnt while in prison. The Appellant denied that he admitted the charge.
3. Regarding the sentence, the Appellant argued that the same was unduly harsh and excessive in the circumstances of his case.
4. Learned public prosecutor supported the conviction and sentence. He pointed out that there was interpretation from **Kiswahili to Pokot** (the Appellant's language), and that the Appellant freely admitted both the charge and the facts narrated by the prosecution. Regarding sentence, learned counsel pointed out that the Appellant got only 5 years out of a possible 14 years, that none of the 21 goats (valued at kshs.110,000/00) stolen were recovered, and that the Appellant was clearly not remorseful, having stated in mitigation only, "*I stole because my goats were also stolen...*".
5. I have examined the record of the trial court. It shows clearly that there was interpretation into Pokot language by one JANE CHEMATUMO who was sworn before she undertook the interpretation.
6. The record also shows clearly that the Appellant admitted both the charge and the facts stated by the prosecution. Those facts disclosed the offence charged.
7. I am satisfied that the Appellant's plea was free, clear and unequivocal. His conviction is safe.
8. Regarding the sentence, the Appellant was indeed not remorseful. He stole 21 goats which were never recovered. The sentence meted out was lawful and deserved. The trial court gave its reasons why it so sentenced the Appellant. There is no reason for this court to interfere.
9. I find no merit in the Appellant's entire appeal. It is hereby dismissed. It is so ordered.

**DATED AND SIGNED AT NANYUKI THIS 29<sup>TH</sup> DAY OF SEPTEMBER 2020**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT NANYUKI THIS 8<sup>TH</sup> DAY OF OCTOBER 2020**