



**REPUBLIC OF KENYA**

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

**CRIMINAL PETITION NO. 1 OF 2017**

**MOSES NGIRA OLUOCH..... PETITIONER**

**VERSUS**

**REPUBLIC..... RESPONDENT**

**RULING**

1. **Moses Ngira Oluoch**, the petitioner herein, was convicted for the offence of robbery with violence contrary to section 296(2) of the Penal Code in Busia Chief Magistrate's Court criminal case 46 of 2007. He was sentenced to death. He appealed to the High Court which reduced the sentence to 15 years imprisonment. He was not satisfied and appealed to the Court of Appeal where his appeal was dismissed. His now petitions to this court for a declaratory order that the sentence to run from the time of conviction.

2. The High Court while reducing the sentence said:

**On the sentence we note the gravity of offence but also consider the Appellants were first offenders. We also consider the value of the robbed property. The Appellants are asked to serve 15 years jail each. The death sentence is set aside. To that extend therefore, the appeal succeeds.**

The court was addressing the sentence that had been imposed by the learned trial magistrate. Even though the court did not specify when it was to run from, there is no doubt time was to run from the date of the sentence of the trial court.

3. For avoidance of doubts, the sentence of fifteen years will run from 9<sup>th</sup> September 2008 when the petitioner was sentenced by the learned trial magistrate.

**DELIVERED and SIGNED at BUSIA this 6<sup>th</sup> day of February, 2019**

**KIARIE WAWERU KIARIE**

**JUDGE**