



**IN THE HIGH COURT OF KENYA**

**AT KAKAMEGA**

**CORAM: D. S. MAJANJA J.**

**CRIMINAL APPEAL NO. 149 OF 2018**

**BETWEEN**

**PHILIP SHILALI OKWIRI.....APPELLANT**

**AND**

**REPUBLIC.....RESPONDENT**

**(Being an appeal from the original conviction and sentence by Hon. E.W. Muleka, SRM dated 18<sup>th</sup> April 2017 in Butali Magistrates Court in Criminal Case No. 71 of 2016)**

**JUDGMENT**

1. The appellant, **CHILALI PHILIP OKWILI**, was convicted on his own plea of guilty for the offence of school breaking and stealing contrary to **section 306(a)** and **section 279(b)** of the *Penal Code (Chapter 63 of the Laws of Kenya)* and sentenced to 2 years' imprisonment on the first limb and 1 ½ years' imprisonment on the second limb.
2. The appellant complains that the court did not clarify whether the sentences should run concurrently or consecutively. This is not clear from the sentence on record.
3. Since the offences were part of the same transaction, I quash the sentence and substitute the same with 2 years' imprisonment on the 1<sup>st</sup> limb and 1½ years' imprisonment on the 2<sup>nd</sup> limb. Both sentences shall run concurrently from the date of the sentence before the trial court, that is, **18<sup>th</sup> April 2017**.

**DATED and DELIVERED at KAKAMEGA this 2<sup>nd</sup> day of September 2019.**

**D. S. MAJANJA**

**JUDGE**

Appellant in person.

Ms Ombega, Prosecution Counsel, instructed by the Director of Public Prosecutions for the respondent.