

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NO. 240 OF 2019

FRANKLINE BIKO KISUZA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The Applicant herein was charged with the offence of breaking into a building and committing a felony contrary to **Section 306(a) of the Penal Code**. The total amount of goods stolen as per the particulars of the offence was Kshs. 12 million. The property belonged to Dizaynfix Group Limited.
2. In the alternative, he was charged with handling stolen goods contrary to **Section 322(2) of the Penal Code** in that otherwise than in the course of stealing, dishonestly received or retained one spade, one crow bar, one wheelbarrow, 12 pieces of blue iron sheet 6 meters each, 2 pieces of red iron sheet 3 meters each, one piece of wooden frame, one infix phone charger, one white extension cable, one empty box of HD camera, one black laptop earpiece, one roll of binding wire knowing or having reason to believe them to be stolen goods.
3. He was convicted of the alternative charge and sentenced to serve five years imprisonment on 30/7/2019. In his revision application to this court, he asks the court to consider the period that he was in custody prior to the sentence, to which the Respondent did not oppose.
4. Under **Section 322(2) of the Penal Code**, the Applicant was liable to a punishment of up to 14 years in jail. Thus, the sentence imposed was reasonable. The offence was also serious. The trial having commenced on 21/8/2017 means that he has been in custody for two years and three months. I thus allow the application with an order that the sentence shall start running on 21/8/2017

Dated and Delivered at Nairobi This 2nd day of December, 2019.

G.W.NGENYE-MACHARIA

JUDGE.

In the presence of:

1. *Applicant present in person*
2. *Ms. Chege for the Respondent*