



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL REVISION NO. 3 OF 2018

GEOFFREY CHERUIYOT MUTAL.....1ST APPLICANT

NICHOLAS KIPNGENO LANGAT.....2ND APPLICANT

RICHARD KIPRONO KIMETO.....3RD APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The three applicants were charged with the offence of stealing from the person Contrary to Section 279 of the penal code on the 1st count.

On the 2nd count the three were charged with assault causing actual bodily harm Contrary to Section 251 of the penal code.

They pleaded not guilty on the two counts and the case proceeded to full hearing and determination. The 3rd accused was found guilty on the 1st count and was convicted and sentenced to one year imprisonment. The 1st and 2nd accused persons were acquitted.

In respect to the 2nd count the three applicants were sentenced to two years imprisonment for each.

Being dissatisfied with both the conviction and sentence the three applicants have brought this application for revision on the sentence.

The sentence for the 3rd accused was ordered to run consecutively. Section 362 of the Criminal Procedure Code provides for power to call for records thus:-

“The High Court may call for and examine the record of any Criminal Proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding sentence or order recorded or passed and to the regularity of any proceedings of any such subordinate court.”

The prosecution does concur with the counsel for the applicants that these are young men who may benefit from rehabilitation.

The application for revision is not opposed. I find that it has merit. Before revising the sentences the court orders that a probation report be availed to the court on each of the applicants.

Mention on 19/6/2018

Ruling delivered dated and signed this 12th day of June 2018 in the presence of learned counsel for the prosecution Mr. Wawire, learned counsel for defence Mr. Koech holding brief for Rono. Court Assistant – Rotich.

M. MUYA

JUDGE

12/6/2018

Court – Mention 19/6/2018

M. MUYA

JUDGE

12/6/2018

19/6/2018

Coram – before Hon. M. Muya – J

Wawire for state

Rotich – CA

Mr. Langat for probation

We pray for mention

Court – Mention on 2/7/2018 for probation report

M. MUYA

JUDGE

19/6/2018

2/7/2018

Coram – Before Hon. M. Muya – J

Wawire for state

Rotich – CA

Mr. Kenduiwo holding brief for Rono for the Accused persons.

Mr. Wawire for the state

Sentencing notes

Sentence for the three applicants are hereby revised.

Each is placed on probation for 8 months in respect of each count.

M. MUYA

JUDGE

2/7/2018