



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MURANG'A

CRIMINAL REVISION NO. 1 OF 2018

VIRGINIA WAMBUI MWANGI *alias*

ANN WAITHERA KAIRU.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

[Revision from the sentence in Criminal Cases Nos. 1200 of 2012 and 1203 of 2012

in the Chief Magistrate's Court at Murang'a by T. Nzioki and J. J. Masiga,

Ag. Principal Magistrate and Resident Magistrate

dated 9th and 24th December 2014 respectively]

RULING

1. The applicant was *convicted* and *sentenced* in separate trials on 9th and 23rd December 2014 respectively.
2. In *Murang'a Magistrates Criminal Case 1200 of 2012*, she was adjudged guilty of *burglary and stealing* contrary to sections 279 (b) and 304 (2) of the Penal Code. She was sentenced to *three years* imprisonment.
3. In *Murang'a Magistrates Criminal Case 1203 of 2012*, she was convicted of *possession of suspected stolen goods* contrary to section 323 of the Penal Code. She was also sentenced to *three years* imprisonment.
4. The trials were in different courts presided over by *T. Nzioki* and *J. J. Masiga*, Ag. Principal Magistrate and Resident Magistrate respectively.
5. This matter was reported for *revision* to the High Court by the Officer in Charge, Lang'ata Women's Prison in a letter dated 13th March 2018.
6. The applicant states that the two sentences were to run *consecutively*. The convict has completed serving the first sentence and embarked on the second. She pleads that she is single. She has three children. One of them is a teenager requiring parental guidance. The children are under the care of her *widowed* mother. She claims to have *reformed*; learnt some useful trades in prison; and, now leads the choir.
7. Obviously, the applicant is *not* challenging the *legality* of the sentences. The two learned trial magistrates were trying two *different* sets of *offences*. The sentences handed down would naturally run *consecutively*.
8. But this is a plea for *clemency*. The applicant has served three years for the first offence. I am inclined to grant an order under the **Community Service Orders Act**. Before making the order, and by dint of section 3 of the Act, I direct as follows: That the *Community Service Officer* (in this case the Probation Service) *shall* conduct an *inquiry* into the circumstances of the case and of the offender. The officer shall furnish the court with the *post-sentence report* within *two weeks*.
9. I will now grant a suitable mention date for final orders.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 4th day of October 2018

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

The applicant.

Ms. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.