

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

CRIMINAL REVISION NO. 133 OF 2018

REPUBLIC.....APPLICANT

VERSUS

JARED MOTURI MANGATE.....1ST RESPONDENT

MATHEW MONGARE.....2ND RESPONDENT

(From the original conviction and sentence in Criminal Case No. 90 of 2018 of the chief magistrate's court at Narok, R. v. Jared Moturi Mangate and Mathew Mongare).

ORDER IN REVISION

1. The above matter has been reported for orders in revision by Hon. W. Juma, in the chief magistrate pursuant to section 363 of the Criminal Procedure Code (Cap. 75) Laws of Kenya. She has pointed out that the 2nd respondent (Mathew Mongare) was convicted on his own plea of guilty to the offence of house breaking contrary to section 304 (1)(b) and stealing contrary to section 279 (b), both of the Penal Code (Cap 63) Laws of Kenya, which is a composite charge.

2. In convicting the appellant, the learned senior resident magistrate (Hon.Nganga) sentenced the 2nd respondent to a sentence of four years imprisonment. In doing so, the learned magistrate was wrong in law in failing to find that this was a composite charge, which required him to impose sentences in respect of each limb of that composite charge.

3. The offence of house breaking carries a maximum of seven (7) years imprisonment, while that of stealing carries a maximum sentence of fourteen (14) years. The sentence imposed by the learned senior magistrate is hereby set aside. In its place I hereby impose a sentence of two (2) years imprisonment on each limb of the composite charge. The sentences are hereby ordered to run concurrently, in view of the fact that the stolen properties valued at Sh.23,000/= were recovered. The aspect of recovery was not taken into account by the learned senior resident magistrate.

Order on revision dated this 7th day of December, 2018

J. M. Bwonwonga

Judge

7/12/2018