



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO. 95 OF 2016

LDUMUNYE LEPRIKIME.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

CONSOLIDATED

CRIMINAL APPEAL NO. 96 OF 2016

SAMUEL LONGOPIA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal from the original conviction and sentence by Hon. C N Ndegwa –principal Magistrate dated 20th November 2015 in Maralal Principal Magistrate Court Criminal Case No. 868 of 2014)

JUDGMENT

1. **SAMUEL LONGOPIA AND LDUMUNYE LEPRIKINE** were charged before the Principal Magistrate’s Court Maralal with the offence of being in possession of wildlife trophy, namely two elephant tusks, **Contrary to Section 95 of the Wildlife Conservation and Management Act 2013** (Wildlife Act). After trial they were convicted and each of them sentenced to pay fine of Ksh. 1 Million and in default to serve five years jail sentence.

2. The two appellants have appealed against the sentence. In their submissions the appellants submitted that their families are dependent on them that they are now reformed having being in jail now for one year and three months.

3. **Section 95 of the Wildlife Act** provides:

“ Any person who keeps or is found in possession of a wildlife trophy or deals in a wildlife trophy, or manufactures any item from a trophy without a permit issued under this Act or exempt in accordance with any other provision of this Act, commits an offence and shall be liable upon conviction to a fine of not less than one million shillings or imprisonment for a term on not less than five years or to both such imprisonment and fee”.

4. The trial court on convicting the appellants of possession of two elephant tusks sentenced the appellants in accordance to what is provided in **Section 95 of the wildlife Act**. The sentence was the prescribed sentence under that Act. **Section 66(1) of the interpretation and General Provisions Act** provides:

“ Where in a written law a penalty is prescribed for an offence under that written law, that provision shall, unless a contrary intention appears, mean that the offence shall be punished by a penalty not exceeding the penalty prescribed.”

5. The appellants having been sentenced to the penalty prescribed under **Section 95 of the Wildlife Act** fail in their appeal against sentence. **Accordingly the appeal against sentence by SAMUEL LONGOPIA and LDUMUNYE LEPRIKINE are hereby dismissed. The trial court’s sentences are confirmed.**

Dated and Delivered at Nanyuki this 14th JUNE 2017

MARY KASANGO

JUDGE

Coram

Before Justice Mary Kasango

Court Assistant: Njue/Mariastella

1st Appellant: Samuel Longopia

2nd Appellant: Ldumunye Leprikine

For state:

Language.....

COURT

Judgment delivered in open court

MARY KASANGO

JUDGE