

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

CRIMINAL APPEAL NO. 198 OF 2015

(An appeal from sentence by F. Kyambia (PM) in Sirisia CrC No. 1095 of 2015)

ALEX KUNDU MANILIA.....APPELLANT

VERSUS.

REPUBLIC.....RESPONDENT

JUDGMENT.

[1] The Appellant (**ALEX KUNDU MANILIA**) was convicted on his own plea of guilty for the offence of burglary and stealing C/Sec. 304 (2) and 279(2) P.C. and sentence to serve 3 years imprisonment.

[2] The charge stated that on diverse nights of 12th and 13th October 2015 at **MALINDI** village **SIRISIA** location in **BUNGOMA** County, the appellant jointly with another broke and entered into the dwelling house belonging to **MAXIMILLA WAKARE** with intent to steal and did steal there from three blankets, four pairs of long trousers, five T-shirts, two pairs of shoes, one bed cover, one vest, one jacket, a pullover and a solar lamp – the property the said **MAXIMILLA** all valued at a total of Kshs.13,000/=.

[3] The facts as narrated to the trial court were that the complainant securely locked her house and spent the night elsewhere. Upon waking up at 6.00 a.m. the next day and going to her house and spent the, she found it broken into and the aforementioned items were missing.

Later on the appellant was found with two blankets, one bed cover, 3 T-shirts, one vest, two pairs of long trousers, one jacket and a pair of sports shoes which the complainant identified as hers.

The trial court was informed that the appellant was not a 1st offender having been placed on 18 months C.S.O.

MR. AKELLO left the issue of sentence to the trial court. I think given the nature of the offence, the fact that the appellant was not a first offender – the 3 years sentence meted out was appropriate and I decline to interfere with it.

The Appeal is dismissed.

Delivered and dated this 13th day of **July, 2017** at **Bungoma**.

H.A. OMONDI

JUDGE.