

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NO. 125 OF 2016

TIMOTHY KIPKEMOI KIPKANGOR.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Applicant was charged with five counts. In Counts I and IV, he was charged with forgery contrary to Section 345 as read with Section 349 of the Penal Code.

In Count V for which he was convicted, he was charged with stealing by servant contrary to Section 281 of the Penal Code. The particulars of the offence were that on diverse dates between the 12th day of May, 2012 and 30th day of September, 2012 at Cooperative Bank of Kenya, Parliament Road Branch in Nairobi within Nairobi county, being a teller in the said bank, stole Kshs. 2,450,000/= the property of the said bank which came into his possession by virtue of his employment. He was sentenced to serve 12 months imprisonment.

The application before this court is for revision of the sentence imposed. The same sentence was delivered on 5th April, 2016. The Applicant states that the same was excessive. He pleads that he was a first offender with a young family comprised of two children and a wife and that he suffers from Asthma, a condition that cannot be well catered for under the prison condition.

Under Section 281 of the Penal Code, a person convicted for the offence of stealing by servant is liable to imprisonment for seven years. In that case, the one year sentence imposed was extremely reasonable. Besides, as at date, the Applicant has only served three months out of the 12 months jail term imposed. I am not therefore convinced he has served sufficient sentence to warrant the revision sought.

Accordingly, in exercise of the powers conferred to this court under Section 364 of the Criminal Procedure Code, the application is declined and thereby dismissed

DATED and DELIVERED this 18th day of July, 2016

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

Applicant in person

M/s Sigei for the Respondent