

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIVASHA

CRIMINAL REVISION NO. 90 OF 2015

(Original Criminal Case No. 1982 of 2015 of the Chief Magistrate's Court at Naivasha, E. Kimilu - SRM)

N P K.....APPLICANT

-VERSUS-

REPUBLIC.....PROSECUTOR

RULING ON REVISION

1. This matter has been reported to me for orders vide the letter dated 23rd October, 2015 Ref. NAP/PPGM/2/Vol.V/62 by the officer in charge of Naivasha Medium Prison.
2. The offender **N P K** was arraigned before the Chief Magistrate's Court Naivasha for the offence of House Breaking and Stealing Contrary to Section 304 (1) (b) and Stealing Contrary to Section 279 (b) of the Penal Code.
3. The particulars state that on the 5th day of September, 2015 at Ihindu village in Naivasha sub-county within Nakuru County, he broke and entered the dwelling house of **Lucy Wanjiku Mwangi** with intent to steal from therein and did steal from therein one mobile phone make **Samsung Galaxy S3 Lite** valued at Kshs 10,999/=, the property of the said **Lucy Wanjiku Mwangi**.
4. The offender pleaded guilty and was convicted. He was sentenced to serve 1 year imprisonment on each limb. The prison authorities suspecting that he was a minor, referred him for age assessment. His age was assessed at 17 years. I consider that in light of his age, a conviction and sentence ought not to have been recorded against him (See Section 189 of the Children Act). Secondly, the prison term does not accord with the provisions of Section 190 of the Children Act. I will therefore quash the conviction and set aside the sentence.
5. I direct that the offender be brought before Hon. P. Gesora, Chief Magistrate to take plea afresh in accordance with the Children Act. A production order to issue for the offender for this purpose for **6th November, 2015**.

Written and signed at Naivasha this 5th day of **November, 2015**

C. W. MEOLI

JUDGE