



**REPUBLIC OF KENYA**

**High Court at Mombasa**

**Criminal Appeal 357 of 2010**

**EMMANUEL MUTUNGA ..... APPELLANT**

**- Versus -**

**REPUBLIC ..... RESPONDENT**

**JUDGMENT**

The Appellant was convicted and sentenced to five years imprisonment for the offence of Stock Theft contrary to Section 278 of the Penal Code.

The particulars of the charge are that on the 28<sup>th</sup> day of January 2010 at unknown time between 8.30am and 5.00pm at Eldoro Village in Taveta County, jointly stole two goats valued at Kshs. 4,000/- the property of William Mwakio.

In the 2<sup>nd</sup> Count the Accused and another were charged with stealing a goat of the value of Kshs. 2,000/- the property of Samson Atembo.

In the third Count the two were charged with stealing a goat of the value of Kshs. 2,000/- the property of Nasib Goodwill. This Appeal is on sentence only. The Appellant contends that he is a youngman of seventeen years and a first offender and is remorseful having learned a llesson after serving two and a half years imprisonment.

The second Accused in the lower Court had pleaded guilty to the charges but when the facts were read to him he stated that they were not true and the matter proceeded to hearing upon which both were found guilty and convicted. The 2<sup>nd</sup> Accused however, has not appealed in this case.

The offence in which they were convicted carries a maximum sentence of 14 years. The two Accused persons were convicted of stealing 4 goats.

They were treated as first offenders. The Appellant has served close to two and a half years imprisonment. That is deemed enough punishment. His sentence is reduced such that he will serve the term he has already served.

He is set at liberty unless otherwise lawfully held.

**Judgement read and delivered in open Court this 8<sup>th</sup> day of May, 2013.**

**M. MUYA**

**JUDGE**

**In the presence of:-**

**Mr. Dzumo for the State**

**Appellant - present**

**Court clerk – Mr. Musundi**