



REPUBLIC OF KENYA

IN THE HIGH COURT

AT KISUMU

Criminal Appeal 132 of 2011

GEORGE OKOTH CHIWJO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(From original conviction and sentence from the Senior Resident Magistrate's court at Siaya Court Criminal no. 1690 of 2010)

J U D G M E N T

The appellant herein **George Okoth Chiwjo** was charged with the offences of stealing stock contrary to section 278 of the Penal Code.

The particulars are that on the night of 17th – 18th December, 2010 at Howe sub location in Siaya district within Siaya County, stole one cow (Bull) valued at Kshs. 15,000/= the property of **Lodvick Ouma Odera**.

He was further charged with handling suspected stolen property contrary to section 322 of the Penal Code.

The particulars are that on the 18th December 2010 at Komolo sub location in Siaya district within Siaya County otherwise than in the course of stealing dishonestly handled one cow (bull) knowing or having reasons to believe it to be stolen goods or unlawfully obtained.

The appellant on his own plea of guilt was sentenced to serve 14 years imprisonment. He has appealed citing the following grounds:-

- 1. That when I was arrested I was beaten by the police which led to a state of confusion when the charge was read.**
- 2. That I was misled by the police not knowing the dangers of this offence.**
- 3. That I have a wife and three children and I am the bread winner.**

4. That I was not in a position to know that cattle were stolen since I used to escort the cattle to the market as a job.

5. That I pray for leniency as I am a layman and I never understood the ingredients of the charge.

6. That I wish to be present at the hearing of this appeal.

The state opposed the appeal arguing that the sentence was sufficient and they do not wish that the same be enhanced.

I have gone through the petition of appeal as well as the facts as stated at the trial court. The appellant fully understood the same. There was no ambiguity at all.

There is no proof that the appellant was beaten by the police nor was there any threats at all.

The theft was carefully executed by the appellant. Consequently, I shall dismiss the appeal. The maximum period for this offence is 14 years. Five years in the circumstances is sufficient.

Having found the appellant guilty on the principal charge this court need not consider the alternative charge of handling suspected stolen property.

The appeal is otherwise dismissed.

Dated, signed and delivered at Kisumu this 9th day of July, 2012.

**H.K. CHEMITEI
JUDGE**

In the presence of:

.....for the state

.....for the respondent

HKC/va