



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT NAIROBI**

**MILIMANI LAW COURTS**

**Criminal Revision 435 of 2009**

**GEORGE MAKAU MULWA ..... APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**JUDGMENT**

The appellant was convicted of four offences three of which related to obtaining money by false pretences contrary to Section 313 of the Penal code and one of attempting to steal contrary to Section 275 as read with section 389 of the Penal code. He was convicted of all the four offences and sentenced to serve 2 years imprisonment in respect of counts 1, 2 and 3 and sentences ordered to run consecutively. Although he was convicted of the 4<sup>th</sup> count, he was not sentenced in respect of that particular count. This must have been an omission on the part of the learned trial magistrate. Aggrieved by the said conviction and sentence he lodged this appeal whereby he challenged the judgment of the learned trial magistrate in respect of sentence alone.

I have noted the grounds of appeal and also what he has had to say in his submission. It is true that he is a first offender and he said as much in his mitigation before the learned trial magistrate. The learned trial magistrate considered the mitigation offered by the appellant. I have also considered the same but add that the appellant obtained a substantial amount of money from different complainants which money has not been recovered. The complainants were different and offences were committed at different times. I also note that he was not sentenced in respect of the 4<sup>th</sup> count upon which he was convicted. He must count himself lucky because at this stage I am unable to impose any sentence on him in respect of that count. I believe the sentences were legal and fair considering the circumstances and seriousness of the offences committed. According his appeal is hereby dismissed.

Orders accordingly.

***Dated, signed and delivered at Nairobi this 4<sup>th</sup> day of July, 2012.***

**A. MBOGHOLI MSAGHA**

**JUDGE**