



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT KISUMU**

**Criminal Appeal 18 of 2012**

**REGINA ANYANGO JOHN .....APPELLANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

(From original conviction and sentence in Criminal Case number 931 of 2011 of the Senior Resident Magistrate's Court at Winam – Mr. C. N. Sindani Esq.)

**JUDGMENT**

The appellant and another were charged with the offence of stealing in a dwelling house contrary to Section 279 (b) of the Penal Code.

The particulars are that on the 3<sup>rd</sup> September 2011 at about 3:00 a.m. at Okore estate in Kisumu West District within Nyanza Province jointly stole one T.V. make Orion, DVD Player make L. G., one cylinder gas make Kobil, one iron box all valued at Kshs. 29,900 the property of Jackson Wahome from the dwelling house of the said Jackson Wahome.

The Alternative charge was Handling stolen goods, contrary to Section 322 (1) (2) of the Penal Code.

The particulars are that on the 3<sup>rd</sup> day of September 2011 at about 5:00 a.m. at Mamboleo junction Kisumu East District within Nyanza Province jointly otherwise than in the course of stealing dishonestly retained a 21 inch T.V. make Orion, DVD player L.G, a gas cylinder and an electric iron box knowing or having reason to believe them to be stolen goods.

The appellant on his own plea of guilty was sentence to serve three (3) years imprisonment. She has then filed this appeal citing the following grounds:-

- 1. That I pleaded guilty to the charge praying for leniency**
- 2. That I was treated as first offender and your lordship the sentence imposed on me is rather on the higher side.**
- 3. That my husband passed away and left me with two children of which I was the only support to**

them.

**4. That I am too – remorseful and repentant hence praying that may this honourable court consider my mitigations and give me a second chance since I believe in the wise saying that once bitten twice shy and promise to be a good citizen.**

Basically, the above grounds are mitigation to say the least I have perused the proceedings and in particular the facts. It is apparent that the appellant together with her accomplice executed well their plan. This they did by drugging the complainant's cousin. Having left him unconscious she went away with the complainant's household items.

The drugging of the complainant's cousin was not something done without a certain degree of preparedness and carefully planned execution. The appellant's action was to ensure that by all means she should never be found or arrested.

I do not therefore think that the appellant's mitigation are plausible. Her action were meant to harm someone. She planned the scheme very well. I shall not therefore review the sentence. The relevant section provides for upto fourteen (14) years imprisonment with hard labour. I shall not enhance and I suppose that the period served shall serve as a useful time for her to reform.

The appeal is otherwise dismissed.

**Dated, signed and delivered at Kisumu this 9<sup>th</sup> day of July 2012**

**H. K. CHEMITEI  
JUDGE**

**In the presence of:**

.....State Counsel

..... Appellant