

REPUBLIC OF KENYA

Musomba v Republic

High Court, at Mombasa July 9, 1992

Omolo J

Criminal Appeal No. 77 of 1992

July 9, 1992, Omolo J delivered the following Judgment.

The appellant pleaded guilty to the charge of burglary and stealing contrary to sections 304(2) and 279(b) of the Penal Code. The facts supporting the charge were then stated and the appellant admitted those facts. The facts he admitted disclosed the offences charged against him. The appellant does not appeal against his conviction.

The appeal against sentence has no merit because the appellant had 17 previous convictions, 12 of which were relevant to the present charge. In those circumstances, I do not see how the sentence of two years imprisonment on each limb of the charge can be said to be harsh or excessive. The Magistrate made a blanket order that the appellant should receive 4 strokes of the cane without specifying whether the appellant was to receive 4 strokes of the cane on each limb. I take it he meant that the appellant should receive in all 4 strokes of the cane, and that must mean the magistrate sentenced him to receive 2 strokes of the cane on each of the charge. I amend the order of the magistrate to that extent, but the appeal against sentence fails and I dismiss it.