

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MACHAKOS

CRIMINAL APPEAL NO 291 OF 1986

MAITHYA.....APPELLANT

V

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant was convicted by the learned resident magistrate of burglary contrary to a section 304 (2) of the Penal Code and stealing from the dwelling house contrary to section 279 (b) of the said Code. He was sentenced to concurrent terms of imprisonment for 2½ years on each limb and one stroke each.

The complainant's house was broken into and articles valued about Kshs 20,000 was stolen from therein during the night of June 8, 9, 1986. On June 25, 1986, police raided a certain market in Kitui as a result of several breakages in the Kitui Township. The appellant was apprehended and interrogated. He led police to certain place where some articles of clothing were recovered. He also led the police to a certain watchman where he picked up a suit which he had left there a day before and handed the same to police. He was at first charged with conveying suspected stolen property but upon identification of the suit and other articles of clothing by the complainant, his wife and his servant, the appellant was charged as above.

The appellants defence was that police arrested him and others. He later took police to the washerman where he pointed out certain clothings but later police produced some other clothings and implicated him.

The learned trial magistrate considered all the evidence and came to conclusion that the clothings which were recovered by police through the appellant were the stolen property of the complainant. There was ample evidence to establish that.

In my view the appellant was properly convicted.

The sentence is not unreasonable.

The appeal is dismissed.

April 24 ,1987

ABDULLAH J