



IN THE COURT OF APPEAL

AT NAKURU

CRIMINAL APPEAL 38 OF 1984

HENRY NDERITU APPELLANT

AND

REPUBLIC RESPONDENT

(appeal from an order of the High Court of Kenya at Nakuru (Masime J) dated July 22 1982 IN High Court Criminal Appeal No 284 of 1982)

JUDGEMENT OF THE COURT

The appellant pleaded guilty to stealing four chicken valued at Ksh 120 contrary to Section 275 and Section 285 of the Penal Code. He was sentenced to 6 years' imprisonment pursuant to Section 221 of the Criminal Procedure Code. His appeal to the High Court (Masime J) was summarily dismissed under Section 352(2) of the Criminal Procedure Code.

The appeal is against sentence, the ground being that the sentence is manifestly excessive. The appellant claimed that his health is in jeopardy.

Learned Principal State Counsel urged that there is no right of appeal and that Section 285 of the Penal Code was correctly invoked.

The learned Judge correctly rejected the petition under Section 352(2). The sentence is lawful and is not in the circumstances excessive. There is no second appeal from such a sentence. The appeal is dismissed. That is the Court's order.

Dated and delivered at Nakuru this day of September 25 1984.

A A KNELLER

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JUDGE OF APPEAL

Z R CHESONI

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AG JUDGE OF APPEAL

J O NYARANGI

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AG JUDGE OF APPEAL

I certify that this is a true copy of the original.

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DEPUTY REGISTRAR