



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA COUNTY

COURT NAME: MOMBASA HIGH COURT

CASE NUMBER: HCCRA/E002/2025

MAUREEN DEBORAH AWUOR VS ODPP

JUDGMENT

"

(ORIGINATING FROM CRIMINAL CASE NO. E259 OF 2024 OF THE CHIEF MAGISTRATE'S COURT

AT SHANZU)

1. This Honourable Court is called to determine the undated Appeal by the appellant who had appealed against the sentence only. Though headed an appeal, in the prayers she seeks a review of the said sentence. The specific prayer was that; *the Honourable Court be pleased to review 3 YEARS IMPRISONMENT sentence imposed by the Trial Court and grant her a more lenient sentence informed by my mitigation and the unique facts. She even indicated that she did not wish to be present or heard.*

The court notes that she was unrepresented and in custody and her prayers are just that the court looks at the sentence afresh. Under Article 159 (2) (D) of the Constitution, the technical defect may be overlooked.

2. The grounds of the said appeal were that—



- That she was arrested and charged at Shanzu law court for the offence of Obtaining money by false pretence c/sec 313 of the penal code.
- That she pleaded guilty to the offence and was sentenced to serve 3 years imprisonment
- That the sentence of 3 years was harsh and excessive in the circumstances of her case
- That by pleading guilty she saved the court's time thus should be accorded a lenient sentence
- That the learned magistrate did not give her a chance to mitigate
- That the learned magistrate did not put into consideration that she was ready to settle the complainants.

She thus prayed that the sentence meted to the applicant be reviewed, the sentence of 3 years be reduced ore she b given a non-custodial sentence.

3. The court called for a sentence review report and one dated 25th November 2024 was prepared and filed by Rosemary A Nyonga. It has the following highlights.

4. CIRCUMSTANCES OF THE OFFENCE

The offender was charged with the offence of obtaining money by false pretences contrary to section 313 of the penal code. She was a teacher at celebration high school located in Kashani then she resigned. According to her, she borrowed some money and was unable to pay back. Then the matter was reported, she was arrested and charged with this offence. The aim of the victims when reporting was that they would get their money back. They were surprised that she was sentenced to serve three years in prison.

5. PRISON ASSESSMENT REHABILITATION AND REINTEGRATION

A sentence review report was filed . It shows that Maureen has been in custody for a period of eight months now. She has also been on medication for depression. She has had time to reflect and hopes to reconcile with her family. While in custody she has involved in supporting the prison documentation department in reports and applications.

5. RECOMMENDATION

The report stated THAT In view of her caregiving responsibilities and the fact that she pleaded guilty of the offence therefore

she was not represented; the court may be lenient and consider a review of her sentence to the



period already served or a shorter custodial period. She has been in custody for a period of eight months.

DETERMINATION

6. The Appellant was sentenced to serve 3 years in prison. She appealed against the sentence only and it

is noted that she pleaded guilty, she is remorseful and she wished to compensate the complainants. She was a breadwinner for her children .

8. In this particular case the sentence was lawful. The trial court did not however take into account the mitigation, the fact that she pleaded guilty and she was willing to make good the loss. These are grounds that ought to have advised on the sentence.

9. The sentence review report is positive and , I allow the appeal

on the sentence the same set aside and she is sentenced to the time spent in custody plus an additional probation

sentence for a period of six (6) months. She is warned to adhere to the probation officers"" instructions.

IT IS SO ORDERED.

**DELIVERED THROUGH MICROSOFT TEAM VIRTUAL, SIGNED AND DATED AT
MOMBASA THIS14th.....DAY OFNovember....., 2025**

HON. LADY JUSTICE W. M. KAGENDO

(JUDGE)

HIGH COURT OF KENYA AT MOMBASA

- **In the presence of:**
 The applicant
- **For the Prosecution:** Mr. Ngiri
- **Court Assistant:** Ms. Bebora

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SIGNED BY/FOR:
HON. LADY JUSTICE WENDY MICHENI





THE JUDICIARY OF KENYA.
MOMBASA HIGH COURT
HIGH COURT CRIMINAL
DATE: 2025-11-16 00:43:27

