



**REPUBLIC OF KENYA**

**THE JUDICIARY**

**IN THE CHIEF MAGISTRATE'S COURT AT**

**NAKURU**

**CRIMINAL CASE NUMBER E1325 OF 2025**

**[ A. P. NDEGE; SPM ]**

REPUBLIC-----

-----DIRECTOR OF PUBLIC PROSECUTIONS

**=VRS=**

ERICK

RAJAIYA

OCHIENG-----

-----ACCUSED

**RULING ON SENTENCE**

1.The accused person herein, **ERICK RAJAIYA OCHIENG**, has been convicted upon own plea of the offence of Fraudulent Disposition of Mortgaged Goods contrary to section 291 as read with Section 36 of the Penal Code. He admitted that on diverse dates between 25/03/2025 and 20/04/2025 at Bondeni area in Nakuru East sub-County within Nakuru County, being a mortgagor of a motor cycle **REG NO. KMGQ 270N** make **HAOJUE** black in color, a mortgaged property, he disposed the said mortgaged property without the consent of **TUGENDE LIMITED**, the mortgagee.

2.He is a first-time offender as no previous record was furnished by the prosecution. He has

pleaded for forgiveness. I have looked at the charges herein and the relevant provisions, section 291 and 36 of the Penal Code, which provide as follows: -

### ***36 General punishment for misdemeanors***

*When in this Code no punishment is specially provided for any misdemeanor, it shall be punishable with imprisonment for a term not exceeding two years or with a fine, or with both.*

...

### ***291. Fraudulent disposition of mortgaged goods***

*(1) Any person who, being the mortgagor of mortgaged goods, removes or disposes of the goods without the consent of the*

*mortgagee, and with intent to defraud, is guilty of a misdemeanor.*

*(2) In this section, "mortgaged goods" includes any goods and chattels of any kind, and any animals, and any progeny of any animals, and any crops or produce of the soil, whether growing or severed, which are subject for the time being, by virtue of any instrument or any written law, to a valid charge or lien by way of security for any debt or obligation.*

3. Given that the accused herein is a first-time offender who has pleaded guilty hence saved the court's time in receiving, recording and evaluating the evidence in a full trial, and also that the offence herein has expressly been stated to be a misdemeanor, and further, the

accused person herein has been in remand custody for approximately over 4 months, I do hereby find the period to be sufficient punishment for this kind of misdemeanor and consequently do hereby discharge the accused under section 35(1) of the Penal Code. He should therefore be released from remand custody forthwith unless otherwise lawfully held.

14 days right of appeal explained.

**DATED, SIGNED AND DELIVERED AT NAKURU**

IN OPEN COURT THIS 18th DAY OF

November  , 2025

ALOYCE-PETER-NDEGE

**SENIOR PRINCIPAL MAGISTRATE**

*In the presence of;*

**Court interpreter: Wakesho**

**Prosecution counsel: Konga**

**Accused: Present**