



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYANDARUA
CRIMINAL APPEAL NO. E023 OF 2025

JOHN GACHUMI MWANGI..... APPELLANT
VERSUS

REPUBLIC..... RESPONDENT

(From the original judgment in Criminal Case No. E114 of 2024 of the Senior Principal Magistrate's Court at Engineer by Hon. E. Wanjala – Principal Magistrate)

JUDGMENT

1. John Gachumi Mwangi, the appellant herein, was convicted of the offence of handling stolen goods contrary to section 322 (1) as read with section 322 (2) of the Penal Code.
2. The particulars of the offence are that on the 17th day of February 2024 at Chururi camp, South Kinangop sub-County of Nyandarua County, otherwise than in the course of stealing, he dishonestly retained four boxes of saws, a scanner and a MacBook laptop knowing or having reasons to believe them to be stolen goods.
3. The appellant was sentenced to serve five years' imprisonment. He was dissatisfied and filed this appeal in person. He raised the following grounds of appeal:
 - a) The learned trial magistrate erred both in law and fact when he failed to observe that the prosecution did not prove its case to the required standard needed in law.
 - b) The trial magistrate erred in law and fact in finding that the evidence of the victim was credible, which was not supported by the evidence.
 - c) The trial magistrate erred both in law and in fact in convicting the appellant on flimsy and frivolous allegations.
 - d) The learned trial magistrate erred in both matters of law and fact by failing to consider the appellant's defence.
4. The state opposed the appeal through M/s Vena Odero, learned prosecution counsel, because it lacked merit.
5. This is a first appellate court. As expected, I have independently analyzed and assessed all the evidence presented in the lower court. I have reached my conclusions, noting that I have

neither seen nor heard any witnesses. My guidance will be based on the well-known case of **Okeno vs the Republic [1972] EA 32.**

6. After the complainant discovered the loss, the appellant emerged as the main suspect because Jesse Njoroge Wairimu (PW1) found him at the camp gate around 9 p.m. on 14 January 2024. Suspicion arose when PW1 asked about his purpose, and the appellant said he responded to the sound of the gate.
7. He (PW1) testified that police officers went to the appellant's house, but he refused to open despite the officers identifying themselves. The door was forced open. During the search, four boxes of pruning saws were recovered, along with a laptop and a printer. PC Chesoni Simon (PW4)'s evidence was to the same effect.
8. John Gachumi Mwangi, the appellant, stated that he rented the house to a woman he knew only as Muthoni on January 16, 2024. She paid a deposit of Kshs. 1500 and agreed to pay the monthly rent of the same amount at the end of the month. On February 17, 2024, around 5 a.m., while milking, he noticed spotlights outside the rented house. When he inquired, police officers asked him to open the door. Since he lacked the keys, they forced the door open and recovered the items inside.
9. The appellant was, in other words, saying that it was Muthoni who ought to have answered for the items. This defence was clearly an afterthought. The police officer who arrested him and the recovery were not questioned regarding where they located the appellant after he testified that they found him inside the house and refused to open it for them.
10. The evidence presented by the prosecution invalidated the appellant's defence, leading to its proper dismissal.
11. Section 322 (2) of the Penal Code provides:

A person who handles stolen goods is guilty of a felony and is liable to imprisonment with hard labour for a term not exceeding fourteen years.
12. The sentence meted out was appropriate and cannot be termed as excessive.
13. The appeal is dismissed.

Delivered and signed at Nyandarua, this 18th day of December 2025

**KIARIE WAWERU KIARIE
JUDGE**