



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYANDARUA**  
**CRIMINAL APPEAL NO. 122 OF 2023**

**PETER MUCHIRI MWANGI.....APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in Criminal case No. E1412 of 2022 of the Senior Principal Magistrate's Court at Engineer by Hon. Daffline Nyaboke Sure– Principal Magistrate)*

**JUDGMENT**

1. Peter Muchiri Mwangi, the appellant herein, was convicted of the offence of stealing stock contrary to section 278 of the Penal Code.
2. The particulars of the offence were that on the 28<sup>th</sup> day of October 2022 at Gathara village in Kinangop, within Nyandarua County, jointly with another person, stole one freshian cow valued at Kshs.80,000/= the property of Ian Mundia Njogu.
3. The appellant was sentenced to serve five years' imprisonment. He has appealed against both the conviction and the sentence. He raised the following grounds of appeal:
  - a) That the learned trial magistrate erred in law and in fact by relying on a statement made by the appellant at the police station, which was obtained by threats and assault.
  - b) That the learned trial magistrate erred in law and fact by convicting the appellant, yet failed to appreciate that the prosecution did not call the crucial witnesses to establish their case beyond a reasonable doubt.
  - c) That no witness saw the appellant stealing the cow.
  - d) That the learned trial magistrate erred in both law and fact in failing to appreciate that the prosecution had failed to establish their case to the required standard, i.e. beyond any reasonable doubt.

4. The respondent did not file any grounds of opposition or submissions.
5. This is a first appellate court. As expected, I have analyzed and evaluated afresh all the evidence adduced before the lower court, and I have drawn my own conclusions while bearing in mind that I neither saw nor heard any of the witnesses. I will be guided by the celebrated case of **Okeno vs Republic [1972] EA 32**.
6. When Ian Mundia Njoroge (PW1) lost his cow, he was later summoned to the police station to identify a cow that had been recovered. It was his stolen cow.
7. PC Tabitha Gatuna (PW2) testified that they were alerted that members of the public had arrested two suspects with a cow. They went and rearrested the two suspects and took possession of the cow. This is the cow PW1 identified as his. This was the gist of the evidence of PC Lester Lemarian, PW3.
8. Peter Muchiri Mwangi, the appellant, stated that he had gone to look for potatoes for sale when a man implicated him falsely in the theft of a cow. A mob joined him before police officers arrived.
9. Section 278 of the Penal Code provides:

***If the thing stolen is any of the following things, that is to say, a horse, mare, gelding, ass, mule, camel, ostrich, bull, cow, ox, ram, ewe, wether, goat or pig, or the young thereof, the offender is liable to imprisonment for a period not exceeding fourteen years.***

The appellant was sentenced to serve five years' imprisonment. The sentence cannot be described as harsh.

10. From the foregoing analysis of the evidence on record, I therefore find that the appeal lacks merit and I accordingly dismiss it.

**Delivered and signed at Nyandarua, this 26<sup>th</sup> day of February 2026**

**KIARIE WAWERU KIARIE**

**JUDGE**