



**Mogere v Republic (Criminal Appeal E055 of 2024)  
[2026] KEHC 4459 (KLR) (17 March 2026) (Judgment)**

Neutral citation: [2026] KEHC 4459 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL APPEAL E055 OF 2024  
TW CHERERE, J  
MARCH 17, 2026**

**BETWEEN**

**ANTONY RATEMO MOGERE ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an appeal from sentence in Keroka MCCR E062  
of 2023 by Hon. M. Munyekenye on 04th October 2023)*

**JUDGMENT**

1. The Appellant was charged with the offences of house breaking contrary to section 304(1) of the Penal Code and stealing contrary to section 279(b) of the Penal Code. He pleaded guilty to both counts and was consequently convicted on his own plea. He was sentenced to four (4) years' imprisonment on each count, the sentences to run concurrently.
2. Being dissatisfied, the Appellant lodged the present appeal confined to sentence only.
3. The Appellant contends that:
  1. The sentence of four (4) years' imprisonment was harsh and excessive
  2. He pleaded guilty and saved the court's time
  3. He is a first offender
  4. He is remorseful and has reformed
  5. He has been in custody since 04<sup>th</sup> October 2023 and has already served a substantial portion of the sentence



6. He seeks reduction of the sentence to the least severe form, including a non-custodial sentence or time served.
4. The Respondent does not oppose the appeal and concedes to a reduction of the sentence on grounds that all the stolen items were recovered and Appellant pleaded guilty to the charges.
5. The sole issue for determination is whether the sentence imposed was excessive and whether this Court should interfere with it.
6. Sentencing is a matter within the discretion of the trial court. An appellate court will only interfere where the sentence is illegal, based on wrong principles, or is manifestly excessive in the circumstances. (See *Wanjema v Republic* [1971] EA 493 and *Ogolla s/o Owuor v Republic* [1954] EACA 270.)
7. In the present case, the Appellant pleaded guilty at the earliest opportunity, which is a significant mitigating factor. The Appellant is a first offender and expressed remorse for his actions. The Appellant has been in custody since 04<sup>th</sup> October 2023, a period that must be taken into account in sentencing.
8. While the sentence imposed was lawful, this Court finds that, in light of the mitigating factors, it was on the higher side.
9. The concession by the Respondent further supports the position that this is a proper case for interference.
10. In the result, the appeal on sentence is hereby allowed. The sentence of four (4) years' imprisonment on each count is set aside and substituted with a sentence equivalent to the period already served. Appellant shall be set at liberty unless otherwise lawfully held.

**DELIVERED AT NYAMIRA THIS 17<sup>TH</sup> DAY OF MARCH 2026**

**WAMAE.T. W. CHERERE**

**JUDGE**

Appearances

Court Assistant - Anita

Appellant - Present

For the DPP - Mr. Chirchir (SADPP)

