



**Sang v Republic (Criminal Revision E113 of 2023)
[2025] KEHC 12432 (KLR) (4 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12432 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E113 OF 2023
RN NYAKUNDI, J
SEPTEMBER 4, 2025**

BETWEEN

GILBERT BANGASEI SANG APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Gilbert Bangasei Sang was charged with the offence of stealing stock contrary to Section 278 of the Penal Code. The brief facts of the particulars are that on the night of 25th and 26th day of August 2022 at Muchorwe Trading Centre Changaiya Location in Kesses Sub county Uasin Gishu County stole one cow valued at Kshs 50,000/= the property of Naomi Gitonga.
2. Alternative Count – Handling stolen property contrary to Section 322(1) (2) of the Penal Code. Brief facts are that on the 26th day of August 2022 at Kemelil village within Nandi County dishonestly handle one cow knowingly or having reasons to believe it to be stolen property.
3. The Applicant entered a plea of guilty, was thereafter convicted and sentenced to serve 4 years imprisonment on 2nd September 2022. He is aggrieved with the sentence and seeks review.
4. The application has been filed under Article 165 (6) (7), Article 50 (2) (p) (q) as read with Section 362 and 364 of the Criminal Procedure Code.

Decision

5. The principles guiding interference with sentencing by the appellate court were properly set out in S vs. Malgas 2001 (1) SACR 469 (SCA) at para 12 where it was held that:

“A Court exercising appellate jurisdiction cannot, in the absence of material misdirection by the trial Court, approach the question of sentence as if it were the trial court and then



substitute the sentence arrived at by it simply because it prefers it. To go so would be to usurp the sentencing discretion of the trial court ... However, even in the absence of material misdirection, an appellate court may yet be justified in interfering with the sentence imposed by the trial Court. It may do so when the disparity between the sentence of the trial court and the sentence which the appellate court would have imposed had it been the trial court is so marked that it can properly be described as “shocking”, “startling” or “disturbingly inappropriate”. (See also Benard Kimani Gacheru vs. Republic [2002] eKLR, Ogolla s/o Owuor vs. Republic [1954] EACA 270 & Shadrack Kipkoech Kogo -vs- Eldoret Criminal Appeal No. 253 of 2003.

6. From the above principles this case does not merit review of sentence. The same is dismissed under Section 382 of the Criminal Procedure Code.

DATED, SIGNED AND DELIVERED VIRTUALLY AT ELDORET THIS 4th DAY OF SEPTEMBER 2025.

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R. NYAKUNDI

JUDGE

