



REPUBLIC OF KENYA



**Langat v Republic (Revision Case E146 of 2024)
[2024] KEHC 3962 (KLR) (23 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3962 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
REVISION CASE E146 OF 2024
HM NYAGA, J
APRIL 23, 2024**

BETWEEN

SHADRACK LANGAT APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This file has been brought up for revision in order to decongest the Nakuru GK Prison.
2. The Applicant was charged with the offence of:

Count I

Shop breaking Contrary to Section 306(a) of the *Penal Code*.

The particulars are that;

On the night of 7th day of September, 2023 at Keringet Trading Centre in Kuresoi South Sub County within Nakuru County, jointly with others not before court broke and entered a building namely a shop of Patrick Kiptoo.

Count II

Stealing Contrary to Section 279(b) of the *Penal Code*.

The particulars are that;

On the night of 6th and 7th day of September, 2023 at Keringet Trading Centre in Kuresoi South Sub County within Nakuru County, jointly with others not before court stole 8 khaki valued at 7,200/=, 6 soft khaki valued at Kshs 6,600/= 9 jeans valued at Kshs 1,200/=, one hard khaki valued at Kshs 1,300/=, 13 jeans valued at Kshs 15,600/=, 4 lakers vest valued at Kshs 2,000/=, 2 cotton vest valued at Kshs 1,200/=, one T-shirt valued at Kshs 550/= all valued at Kshs 35,650/= the property of Patrick Kiptoo.



3. He pleaded guilty and he was sentenced to;
Count I: Pay a fine of Kshs 20,000/= in default three (3) years in jail.
Count II: Pay a fine of Kshs 10,000/= in default six (6) months in jail.
4. Section 28(2) of the [Penal Code](#) provides as follows;

“28 (2) In the absence of express provisions in any written law relating thereto, the term of imprisonment or detention under the *Detention Camps Act (Cap. 91)* ordered by a court in respect of the non-payment of any sum adjudged to be paid for costs under section 32 or compensation under section 31 or in respect of the non-payment of a fine or of any sum adjudged to be paid under the provisions of any written law shall be such term as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any such case the maximum fixed by the following scale—

“Exceeding Sh. 2500 but not exceeding Sh. 15000....3 months

Exceeding Sh. 15,000 but not exceeding Sh. 50,000 ... 6 months

5. Therefore, in imposing a fine of Kshs 20,000/- and 10,000/= the maximum sentence in default thereof should have been six (6) and three (3) months respectively.
6. Consequently, the sentence imposed by the trial court was improper and is set aside.
7. The Applicant has served a substantial part of this sentence, which is unlawful.
5. The Sentence Review Report by the Probation Officer, Nakuru County found the Applicant suitable for Community Service. It is recommended that he performs the same at Keringet Boys.
6. I find this case fit for Revision and order that the sentence of the trial court be revised.
7. The Applicant is now to serve the remainder thereof under Community Service at Keringet Boys for a period of six (6) months.
8. The terms will be explained to him.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 23RD DAY OF APRIL, 2024.

H. M. NYAGA

JUDGE

In the presence of;

C/A Kipsugut

N/A for state

