



**Ssekajigo v Republic (Criminal Appeal E020 of 2022)
[2024] KEHC 8120 (KLR) (27 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 8120 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL APPEAL E020 OF 2022
JN ONYIEGO, J
JUNE 27, 2024**

BETWEEN

ABDU RASHID SSEKAJIGO APPELLANT

AND

REPUBLIC RESPONDENT

(Being an appeal from the conviction and sentence of Hon. P. Areri (Pm) delivered on 6-01-20 in Mandera PM's court in criminal case number 229 of 2019)

JUDGMENT

1. The appellant herein was arraigned before Mandera PM'S court charged with five counts. Count I, he was charged with being a member of a terrorist group contrary to Section 24 of the Prevention of Terrorism Act, 2012. The particulars were that, on or before 23.06.2019 at Mandera border within Mandera County, he was found being a member of a terrorist group namely Al-Shabaab, ISIS/ISIL (Islamic State in Syria and Islamic State in Libya).
2. Count II, he was faced with the charge of being found in Possession of articles connected with the commission of a terrorist Act contrary to section 30 of the Prevention of Terrorism Act of 2012. Particulars were that on 23.06.2019 at Mandera Border Post within Mandera County knowingly he had in his possession a mobile phone make Sony Xperia model z4 IMEI No. 351336270058517 fitted with Safaricom micro Sim Card S/No. 89244021004021004055160653 that had images namely: 1967290299,6ccd3485d79d3926,7af0068674f0687,24f9352d4711392d,33db18b6ce2a28db,884a0e04dc27cd7d,812 which are articles for the use in preparing to commit a terrorist act.



3. Count III, he was charged with being found in Possession of articles connected with the commission of a terrorist act contrary to section 30 of the Prevention of Terrorism Act of 2012. Particulars were that on 23.06.2019 at Mandera Border Post within Mandera County, knowingly he had in his possession a mobile phone make Infinix Model IMEI No. 357700075954713/357700075954721/357700075954739 fitted with Airtel Simcard 8924302080490231485 2. 89256010000505329169 3. MTN Simcard 0116594804 that he used to collect and transmit information to wit audios namely:

1. Rogo 1.mp3 – 65 MB – 01.11.11.
2. Rogo 2.mp3 – 81MB – 01.28.37.
3. Rogo 3. p=mp3 – 21MB – 23.13.
4. Rogo 4.wav – 16MB – 01.09.29.
5. Rogo 1 Hakuna Usiyano kati ya uislamu na kafiri.ramadhani – 49.3MB – 00.53.54
6. Rogo 2 Ibrahimu 3.MP3 – 0 bytes
7. Rogo 4 aswahabul kahff 1.mp3 – 12.8 MB – 00.56.05.
8. Rogo 4 aswahabul kahff 2.mp3 – 13.4 MB – 0058.42.
9. Rogo 4 aswahabul kahff3 Uhdud.mp3 – 12.0 MB – 00.52.38.
10. Rogo aswahabul kahff 4.mp3 – 12.5 MB – 00.54.51.
11. Rogo Muhammadi.mp3 – 9.6 MB 00.42.09.
12. Rogo faida ya jihad 1.mp3 – 25.9mb – 01.53.26.
13. Rogo faida ya jihad 2.mp3 – 11.8 mb – 00.51.36.
14. Rogo Ghuruba.mp3 8.5mb – 00.37.20.
15. Rogo hukmullah ndio dini 4.mp3 – 5.2 mb – 00.23.06.
16. Rogoidi 2006.mp3 -78.2 mb 00.56.57.
17. Rogoidi 2012 – 1.mp3 – 15.6mb 00.11.24.
18. Rogoidi 2012 -2.mp3 9.8mb 00.07.11.
19. Rogo jihadi 1 simba.mp3 – 16.2mb – 01.11.11.
20. Rogokafiri hakupendi.mp3 22.7mb – 00.24.53.
21. Rogo kumbuka mawuti.mp3 – 30.7mb – 00.22.22.
22. Rogokubukautakapoatswa kaburini.mp3 – 45. 1 mb – 00.32.53.
23. RogoMawutinaihai 1.mp3 – 43.8mb – 0031.54.
24. RogoMawutinaihai 2.mp3 – 17.4mb – 00.12.43.
25. Rogonguzoya atawidi.mp3 – 15.5mb – 01.07.44.
26. Rogorahimahulla 2.mp3 – 15.8mb – 00.11.34.



27. Rogo serekali.mp3 – 55.5 – 01.00.41.
28. RogoTusipigekura 1 22.mp3 – 14.0mb – 01.01.15.
29. RogoTusipigekura 2 izadjanasrullahi. Mp3 – 91.7mb 01.06.48.
30. Rogotusipigekura 3 izadja nasrullahi. Mp3 – 15.8mb – 00.11.34.
31. RogoUislamusiwamutu A. mp3 – 112.7mb – 01.22.06.
32. RogoUislamusiwamutu B.mp3 – 15.7mb – 01.08.59.

For use in preparing to commit a terrorist act.

4. Count IV, he was charged with facilitation for recruitment of persons to a Terrorist Group c/sec 13A of the *Prevention of Terrorism Act* of 2012. Particulars were that on the diverse dates between 17.06.2019 and 23.06.2019 and at diverse locations being the Kenya – Uganda border at Busia, Mombasa – Kenya, Garissa and Kenya – Somalia border at Border Point IV at Mandera, he knowingly facilitated the recruitment into Al-Shabaab of two Congolese nationals namely: Shadrack Jacob alias Ramadhan Yakobo and Kasereka Kanyama Adolphe alias Issa Suleiman.
5. He pleaded not guilty to all the counts and the matter proceeded for hearing. Upon conclusion of the trial, the appellant was convicted of counts I, III and IV and consequently sentenced to serve 10 years' imprisonment for each count. Sentences were to run concurrently.
6. The appellant raised 6 grounds in support of his appeal filed on 14.10.2021 which may be summarized as follows:
 - i. That the learned trial magistrate erred in law and fact by relying on evidence which was contradictory.
 - ii. That the learned trial magistrate erred in law and fact by failing to appreciate that the identification did not pass the test of the judges rules.
 - iii. That the learned magistrate erred in both in law and fact by shifting the burden of proof to him.
 - iv. That the learned trial magistrate erred in law and fact by failing to find that the investigating officer did not conduct any investigation and if he did, the same was shoddy.
 - v. That the learned trial magistrate erred in law and fact by failing to appreciate his defence.
7. The appeal was canvassed by way of written submissions wherein the appellant filed his submissions dated 07.08.2023 through the firm of Chacha A. Mwita and Co. Advocates. It was submitted that the appellant was not given a fair hearing for the reason that the trial magistrate did not bring to his knowledge the need for him to have an advocate. That the same was visible by the quality of cross examination of the prosecution witnesses by the appellant. The appellant relied on the case of Joseph Ndung'u Kagiri v Republic [2016] eKLR where the court held the view that in criminal cases where the state represents the victim and the accused person unrepresented, the setting remains uneven.
8. It was argued that the prosecution relied on hearsay evidence more so on the count that the appellant facilitated the recruitment of Shadrack Jacob and Kasereka Kanayama to join the Al-Shabaab. That the appellant was convicted on unsubstantiated and uncorroborated evidence. Reliance was placed on the case of Mary Wanjiku Gichira v Republic, Criminal Appeal No. 17 of 1998 where the court held that suspicion however grave, is not a basis for a conviction.



9. The trial magistrate was faulted for having admitted illegally acquired evidence which had failed to meet the required evidentiary limitations. That the evidence of PW6 was illegally acquired for the reason that PW1, PW2, PW3 and PW4 did not lay basis as to why it was justifiable to confiscate the mobile phone. The appellant thus urged this court to quash his conviction and set aside the sentence.
10. The Prosecution (DPP) through Mr. Kihara learned counsel filed their written submissions dated 20.07.2023. It was submitted that the evidence adduced by the prosecution witnesses was corroborative and enough to convict the appellant. On sentence, it was argued that the same was not only legal but also appropriate bearing in mind the circumstances of the case and therefore, this court was urged to uphold the same.
11. It is a settled principal of law that the first appellate court is mandated to reconsider and re-evaluate the evidence on record, bearing in mind that it did not see or hear the witnesses, before making a determination of its own. See *Pandya v R* (1957) EA 336, *Ruwala v R* (1957) EA 570 and *Okeno v R* [1972] EA. 32.
12. Briefly, PW1, Hassan Abdikadir testified that on 23.06.2019, he was at KRA Offices when he was called by a KRA staff member telling him that there was a suspicious person outside the KRA Offices. That he called one Abdullahi Guliye after which the suspect was invited to the office. It was his testimony that upon searching the said person, they found on him a Ugandan Identity Card and a mobile phone.
13. They subsequently escorted the suspect to the Mandera Border Police to make a report where a further search yielded Kes. 22,400 and an altered bus ticket for Salam Bus from Wajir to Mandera. He reiterated that the officers at the sentry arrested two individuals, the accused herein and two other individuals from Congo among them Shadrack Jacob who was an electrical engineering student according to the student ID card found in his possession.
14. PW2, Abdi Abdullahi Guliye testified that on 22.06.2019 at around 5.30 p.m., he received a call from PW1 sergeant Hassan requesting him to rush back to the office. That he took his gun and rushed to the office and upon reaching there, he was told of a suspicious looking person who was standing in front of the office. He stated that upon searching the said person, they recovered; a bus ticket for Salam bus, a Ugandan Identity Card, a mobile phone make infinix and three sim cards (two Airtel and one MTN) and cash Kes 22,400/=.
15. It was his testimony that upon escorting the arrested man to mandera border police post, they found two colleagues of the accused person who said that the accused was leading them to Somalia. That the duo identified the accused person as the one who was leading them to Somalia. On cross examination, he stated that upon asking the accused where they were headed, the accused stated that the destination was Burahawa in somalia.
16. PW3, Nelson Maina stated that he was on sentry duties on the material day and while there, he saw a young man come from the direction of Mandera Town. That he was in such a hurry as he was panting and upon entering the gate, he stopped him and enquired who he was and the reason for his visit. The young man allegedly stated that he was Shadrack Jacob and that he had arrived via a bus together with two of his colleagues whom he could no longer trace. That they had arrived via Salam Bus and that they were headed for Burahawa.
17. Upon searching him, they found on him a Salam Bus ticket, a student identity card and a smart phone. Shortly thereafter, another young man arrived from the Mandera Town's direction and he also stated that he was heading to Burahawa, Somalia. Upon interrogation, he said he was being taken to Somalia to look for work and that he was in the company of Kasereka Kanyama. In company of his colleagues, they escorted the duo to Mandera Border Police Post Report Office where they reported the matter.



- While there, PW1 arrived with another young man whom the duo pointed as the one responsible for their journey to Somalia. On cross examination, he stated that Shadrack Jacob did not tell them the kind of work that they were to do while in Somalia.
18. PW4, P.C. Kelvin mutuku testified that on the material day, he was with PW3 performing sentry duties when a suspicious looking young man arrived from Mandera Town direction. Together with his colleague, they interrogated him and learnt that he was heading to Burahawa, Somalia. The young man had on him a student identity card and a bus ticket. He reiterated the evidence of PW3 and further noted that while there, another young man arrived at the main gate and upon interrogating him, he maintained silence. On searching him, they found in his possession a Salam Classic Bus ticket and the same had been altered just like the one by the previous young man. They escorted the duo to the Police Station but while there, PW1 arrived with the appellant herein. The suspects and the exhibits were handed over to the ATPU and later on, the charges herein were pressed.
 19. PW5, Elijah Nakel, the investigating officer testified that on 24.06.2019 in the morning hours, three young men were presented to the station as they had been arrested while attempting to cross to Burahawa, Somalia. The trio were a Ugandan, Abdu Rashid Ssekajigo alias Sheik Ibrahim, Kasereka Kanyama Adolphe alias Suleiman and Shadrack Jacob alias Ramadhan Yakobo.
 20. It was his evidence that he made an inventory of what each suspect had in the presence of Ebonike and P.C Wislon Nyaga. He recovered a mobile phone make Infinix Hot 7, IMEI 357700075954713, IMEI 357700075954721 and IMEI 357700075954739. The phone had a memory card 16GB ultra flash micro SD, two airtel sim cards serial number 89256010000505329169 and a serial number 89254303080490231487; an MTN sim card serial card 0116594804; Uganda National Identity Card No. 013238874 name Abdu Rashid Ssekejigo expiring on 15.07.2025; Bus Ticket Salam Bus company serial number 12618, seat number 38, passenger Abdu Rashid issued on 12.06.2019 and the travel date was 14.06.2019 and cash Kes. 22,400. That he sent the phone, sim cards and the memory card to the ATPU laboratory for analysis.
 21. It was his testimony that in the phone and memory card, there were 290 audios which he listened to and established that their author was Sheikh Aboud Rogo, a dangerous terrorist. The audios had terrorism messages especially directed towards the Al-Shabaab. From his investigations, he found that the three young men whose leader was Abdu Rashid Ssekajigo, the appellant herein were going to earn a living in Somali and that they travelled from Uganda to Kenya through Busia. That the appellant who is an orphan while leaving home, informed his relatives that he was going to undertake Islamic Religious Training but did not inform them where.
 22. PW6, Joseph Olum a cyber-crime investigation officer testified that he received from pw5 exhibit make mobile phone models Infinix Hot 7, IMEI 357700075954713, IMEI 357700075954721 and IMEI 357700075954739 for analysis. That the same were fitted with three sim cards and one memory card. The first sim card was airtel serial number 89256010000505329169 and a serial number 89254303080490231487; and a MTN sim card serial no. 0116594804. That he was requested to see if there could be any recovery of any telephone and if any of the numbers which could link the same with known terror members; additionally, any evidential material that could be of assistance to the case.
 23. In his findings, he found that the audios had radical terrorism teachings which could be used to encourage those who had interest to join terror groups. The said audios could also be used to radicalize good citizen to join outlawed terrorist groups. That Rogo in trying to convince young men to go fight in Somalia, decried the fact that some clerics were reluctant to support the said war. In short, all the 44 audios were related to terrorism activities in the context that the messages encouraged those who have



- interest and also to convince the youth to join the war. He produced a report dated 17.07.2019 with a certificate and a compact disk containing 44 audios as Pex 13 and 14 respectively.
24. The trial court via a ruling delivered on 11.12.2019 found that the prosecution had established a prima facie case against the accused person thereby placing him on his defence.
 25. DW1, Abud Rashid Ssekajigo testified in his unsworn testimony that his country of origin is Uganda and while there, his parents passed on. That he was engaged in business and upon the same going down as a result of Ebola, he was left with no choice but to look for better options elsewhere in order to survive. That his friends Kasekera and Ibrahim Magombe told him that in Mandera, business was booming and so, he should give the same a try. That he informed his friends, Kasekera and Shadrack Jacob on the advice by Ibrahim Magombe in as far as doing business in Mandera was concerned.
 26. He stated that they went to Kasereka's school where he was given his school identification card and given that the phone he was using at that time belonged to a friend, he bought an infinix phone with three sim cards (two airtel and MTN lines) and a memory card 16GB.
 27. He requested his friend to upload Quran teachings in the said memory card before they embarked on the journey. That in their attempt to reach Mandera, they travelled to Mombasa only to come back to Nairobi where they boarded a bus to Garissa and thereafter to Mandera. He stated that the tickets that they were issued had been previously issued to other persons hence the alterations on the surfaces of the tickets. It was his testimony that on the day they were arrested, they had attended prayers after which they realized that Shadrack Jacob had gone missing hence the frantic efforts to locate him. It was his evidence that they were later charged and arraigned in court – in Criminal Case No. 298 of 2019) where they pleaded guilty and thereafter sentenced to serve five years' imprisonment. Later on, he was charged with the offence herein.
 28. The appellant herein was found guilty of Counts I, III and IV.
 29. On Count I, the accused was charged with the offence of being a member of a terrorist group contrary to Section 24 of the [Prevention of Terrorism Act](#), 2012. Section 24 provides that;

“Membership of terrorist groups-

A person who is a member of, or professes to be a member of or associates with or professes to associate with a terrorist group commits an offence and is liable, on conviction, to imprisonment for a term not exceeding thirty years.”
 30. For one to be found guilty under the above provision, prosecution must prove either conjunctively or disjunctively any of the following; the accused is a member of a terrorist group; professes to be a member of a terrorist; associates with such terrorist group; or professes to associate with a given terrorist group. In respect of count I, the appellant was accused of being a member of a terrorist group namely Al shabaab, ISIS/ISIL.
 31. There was no direct evidence linking the appellant with membership of any of the two mentioned terrorist groups. The only connection with membership of a terrorist group is the fact of being found in possession of materials advancing the ideologies of terrorism.
 32. It is trite that where the membership of Al-Shabaab is not confessed and or conceded, the court may infer such membership based on the conduct of the accused. PW6 testified that in the all the 44 audios extracted from the phone of the appellant, the same related to terrorism activities in the context that the messages encouraged those who had interest and also to convince the youth to join the war. PW5



testified that in his investigation, the appellant had informed his family members that he was going to undertake Islamic Religious Training but did not inform them where.

33. In the same breadth, it was testified that some of the excerpts printed from the appellant's mobile phone/ memory card produced as Pex 14, were to the effect that: 'Tusiishe na Kafir and Kafir hakupendi'. From his defence, he stated that the memory card had Quran teachings. It is worth noting that the appellant did not create any doubt against the evidence by PW6. He could not offer any good explanation as to why he had the said teachings of one Aboud Rogo, a self-declared Al Shabaab supporter in his phone encouraging terrorist activities.

34. In as much as he argued in his defence that what he downloaded was simply a Quran, the said defence was displaced by the evidence of PW5 and PW6. In my view therefore, the same led to the reasonable inference circumstantially that the appellant was a member of the proscribed group. See *Sawe Vs. Republic* [2003] KLR 364, where the Court of Appeal had this say on circumstantial evidence:

“In order to justify on circumstantial evidence, the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused, and incapable of explanation upon any other reasonable hypothesis than that of his guilt. There must be no other co-existing circumstances weakening the chain of circumstances relied upon. The burden of proving facts that justify the drawing of this inference from the facts to the exclusion of any other reasonable hypothesis of innocence remain with the prosecution. It is a burden which never shift to the party accused.”

35. Based on the materials found in his possession, it is clear that by association, he was advancing Alshabaab ideologies hence reasonable inference that he was a member of a terrorist group to wit Alshabaab.

36. On Count III, the appellant was charged with the offence of possession of articles connected with the commission of a terrorist act contrary to section 30 of the *Prevention of Terrorism Act* of 2012; and subsequently Count IV, facilitation for recruitment of persons to a Terrorist Group c/sec 13A of the *Prevention of Terrorism Act* of 2012

37. Section 30 does provide as follows.

Possession of an article connected with an offence under this Act-

A person who knowingly possesses an article or any information held on behalf of a person for the use in instigating the commission of, preparing to commit or committing a terrorist act commits an offence, and is liable, on conviction, to imprisonment for a term not exceeding twenty years.

38. In the instant case, the infix phone contained materials intended to instigate the commission of a terrorist act by inciting Muslims to rise and join jihads to fight against kafirs. The content of radicalization materials in the videos contained in the phone is self-evident that the phone was in use as an article with information intended to recruit more followers especially young persons to execute terrorism activities.

39. In the case of *Osman Mohamed Balagha v Republic* [2018] eKLR, H.C at Garissa Criminal Appeal *No. 30 of 2017* learned judge Dulu, J. observed at paragraphs 16 to 21 as follows;

“ 16. What are the contents of the two videos? The contents were seen and heard by the court as the videos were played at the trial. The first video lasted two minutes and eleven seconds. It was in Kiswahili talking about others joining the group and encouraging them to join Al-Shabaab. The second video was



for a shorter period of thirty-six seconds which was slightly more than half a minute and portrayed a man being beheaded by a group professing it to be an act of terrorism from an unknown place. It was in Arabic but of course the pictures were seen by the magistrate.

17. From the Face-book chats, it was also clear that the Appellant Balagha was communicating with somebody called Tatu Bila just after the Garissa University attack. All this was not denied by the Appellant or disputed at the trial.
 18. The prosecution was required to prove that the information contained in the video was for use in instigating commission of or preparation to commit a terrorist act. In my view, the content of the first video which called or encouraged others to join Al-Shabaab was clearly meant to facilitate commission of a terrorist act or acts. The Appellant himself said that he went to Mombasa to teach people whom he did not identify using that video among others.
 19. The second video was meant to demonstrate how terrorist acts can be executed.
 20. In my view, the sum total of the contents of the videos and the teaching of the Appellant to others relating to those videos, which he admitted, fell squarely within the definition of Section 30 of the *Prevention of Terrorism Act*. Both possession and intended use were proved. In my view therefore, the learned magistrate was right in convicting the Appellant. The sentence was lawful.
 21.
 22. I find no merits in the appeal. I dismiss the appeal and uphold both the conviction and the sentence of the trial court.”
40. In the instant case, PW5 and PW6 testified that the material recovered from the appellant’s phone contained information that advocated for terrorist activities such as, calling on the youth to go to Somalia to fight. In the same breadth, one Rogo in the audios, was trying to convince young men to go fight in Somalia; additionally, he decried the fact that some clerics were reluctant to support the said war.
41. PW6 further testified that all the 44 audios are related to terrorism activities in the context that the messages encouraged those who have interest and also to convince the youth to join the war. During the hearing, the court played inter alia audio titled Rogo Jihad Simba 16.2 mb. The same lasted 1 hour, 11 minutes and 11 seconds and the content of the same was to the effect that Rogo was comparing what was happening in Somalia to be Jihad and that some of the Muslim clerics were not supporting the said war.
42. He was thus calling upon the youth to support the war in Somalia and further recruit young men to go to Somalia to fight makafir(non-muslims). In audio number 12, Rogo Faida ya Jihad 25.9mbs and the length of the same being 1hour 53 minutes 26 seconds, the court listened to the same; and thereafter noted that the message was directed to the Kenyan Youths who were already in Somalia and were trying to pass a message to all Kenyans that they were ready to shed blood in Kenya. Further, in their song, they were praising their leader Abuzuber and that they were all behind him. They encouraged others to join Al-Shabaab.



43. It was submitted that generally, all the audio retrieved from the appellant's phone/memory card spoke to encouraging Jihadism and extremism all of which were acts of terrorism. Moreover, it was not singular audio but repetitive information with the same spirit of encouraging terrorism. In the given circumstances therefore, how then could the appellant claim innocence of the said audios as the same were recovered from him?
44. It is quite evident that the said audios sought to encourage the youths to join the war in Somalia. In the same breadth, PW5 in his investigations stated that in his investigations, he found that the three young men whose leader was Abdu Rashid Ssekajigo were going to earn a living in Somali and that they travelled from Uganda to Kenya through Busia.
45. The two young men although not witnesses in this case were interrogated and separately charged. They all told the officers who their leader was in this case the appellant. There is no doubt that the two young men pointed at the appellant as their leader. Even in his defence he admitted convincing the two guys to accompany him go to Mandera and then Burahawa in Somalia to look for better living opportunities. From the appellant's conduct, he was in a mission to facilitate them for recruitment to terrorist activities. He cannot escape liability. On that ground alone, it is my finding that count IV was properly proved.
46. In view of the above holding, it is my finding that prosecution did prove their case beyond reasonable doubt and that the conviction on Counts I, III and IV were therefore safe and as such, grounds 1,2 and 3 of the grounds of appeal are dismissed.
47. The appellant contended that his defence was not considered by the trial court. Having perused the judgment by the trial court, I find that the same is far from the truth. To the contrary, the trial magistrate noted that the appellant's evidence was displaced by that of the prosecution particularly to the counts that he was convicted on. In my view, the prosecution did prove its case to the required standards and the appellant did not cast any doubt on the said evidence.
48. On sentence, this court would interfere with the same only where the sentence, inter alia, is not within the law. (See *Mustafa Elimlim Emekwi v Republic, (Criminal Appeal No. 127 of 2007*, Court of Appeal sitting at Eldoret, unreported,) Omolo, O'Kubasu & Aganyanya JJA while upholding the decision of the Superior Court stated as follows;
- “The High Court (Ochieng, J) considered the Appellant's appeal but the learned judge dismissed the appeal by stating inter alia; “In any event, the sentence meted out are both within the law. I find no reason to fault the manner in which the learned trial magistrate exercised his discretion in that regard. Accordingly, the sentences are both upheld. In the result this appeal is dismissed” ...we agree with the learned judge of the Superior Court that the sentence imposed were lawful.”)
49. In the instant case, the appellant was sentenced 10 years in the respective counts and the same were to run concurrently.
50. In regards to Count I, Section 24 of POTA provides for an imprisonment term not exceeding thirty years.
51. Section 30 of POTA in reference to Count III provides for imprisonment for a term not exceeding 20yrs while Section 29 in regards to Count IV provides for imprisonment term not exceeding thirty years.



52. In view of the sentences provided under the relevant provisions, the sentence meted against the appellant by the magistrate court was within the law as provided for under POTA. The same was commensurate with not only the offence committed, but also the circumstances of the case hence no good reason to interfere.
53. Having regard to all the above, I have no reason to disturb the conviction and sentence imposed. I thus dismiss the appeal herein in its entirety.

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 27TH DAY OF JUNE 2024.

J.N. ONYIEGO

JUDGE

