REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
CRIMINAL APPEAL NO 1273 OF 2000

FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL CASE NO 731 OF 2099 OF THE CHIEF MAGISTRATE'S COURT AT NAIROBI

SIMON MWANGI THUO……APPELLANT
VERSUS
REPUBLIC……..RESPONDENT

JUDGMENT

The appellant was convicted of the offence of stealing by agent c/s 283(b) of The Penal Code and sentenced to 4(four) years imprisonment. Being aggrieved by the said conviction and sentence he appealed.

At the hearing of this appeal but after the address by the learned counsel for the Republic the appellant admitted the offence an asked for forgiveness. The effect thereof is that the appeal is only against the sentence imposed by the learned trial magistrate.

A person convicted of this offence is liable to imprisonment for a period of seven years. The appellant was represented by counsel in the lower court who placed before the court everything possible in mitigation.

In sentencing the appellant, the learned trial magistrate took into consideration all that was said in mitigation by counsel for the appellant.

He however took into consideration the fact that not a single cent out of the Kshs.15 million stolen had been recovered. He added that the appellant abused the trust his employer had reposed in.

With respect, the learned trial magistrate applied the correct principles in sentencing the appellant. He cannot be faulted. I seen no reason to interfere with the sentence imposed on the appellant.

The end result is that this appeal fails and is hereby dismissed.

Order accordingly.

Dated and delivered at Nairobi this 20th day of December, 2001

MBOGHOLI MSAGHA
JUDGE