



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CONFIRMATION CRIMINAL CASE NO. 1746 OF 2007

THE REPUBLIC

VERSUS

LYSON KACHIMANGA

CORAM: THE HONOURABLE E. B. TWEA

Miss Kunitengo, of the Counsel of State

Accused present in person

Mrs S. P. Moyo

RULING

Twea, J

The convicted was charged with burglary. He pleaded not guilty but the court found him guilty after a full hearing.

The facts were that the complainant was in his house preparing to sleep. At around 9:00 p.m. he noted that someone was opening the door, and was entering into the house. He gave a chase and arrested him. The arrested person was the convict.

In his defence the convict told the court that he fought the complainant after they quarrelled at a video show. The complainant and his friends then stripped him of his clothes and took him to police on allegations of theft.

The court did not believe him and rightly so. He never raised this when he was cross – examining the complainant. Again, when he was cross – examined by the State he denied having, had any quarrel with the complainant. In fact he alleged that he did not know the complainant.

I find that the conviction was properly grounded. The court drew a proper inference that he intended to steal from the house of the complaint.

On review, the Judge was of the view that the sentence be reduced. The State did not fully support this. The Sentencing Guidelines recommended a starting point of 6 years. In this case the convict denied the charge although he was caught after a chase from the house that he broke. The court took into account that he is a first offender and was responsible for his old grandmother, and sentenced him to 4 years Imprisonment with Hard Labour. I do not find any other mitigating factor that would justify lowering the sentence further.

I concur with the State. The sentence of 4 years imprisonment is hereby confirmed.

Pronounced in Open Court this 27th day of February, 2008 at Blantyre.

E. B. Twea
JUDGE