

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CONFIRMATION CASE NO. 560 OF 2002

THE REPUBLIC

VERSUS

MABVUTO THYOKANYANGA

From the Second Grade Magistrate's Sitting  
at Nsanje: Criminal case No. 33 of 2002

**CORAM: HON. MR JUSTICE F.E. KAPANDA**

Miss Nayeja, of Counsel for the State Advocate  
Accused, present and Unrepresented  
Mr Nthole, Official Interpreter

Date of hearing: 17th April 2002

Date of Order : 17th April 2002

---

Kapanda, J

### ORDER IN CONFIRMATION

The defendant, Mabvuto Thyokanyanga, was jointly charged with two other people. The three were indicted with the offences of housebreaking and theft. The defendant herein pleaded guilty to the

charge of housebreaking. The court proceeded to enter a conviction against him and sentenced him to serve a custodial term of imprisonment of fifty-four (54) months.

The Co-accused were convicted after a full trial and a term of imprisonment of forty-two (42) months was imposed on them. The reviewing judge caused this matter to be set down to consider the sentence meted out on the defendant who had pleaded guilty. The judge was of the view that the punishment meted out on the defendant was excessive due regard being had to the fact that the Co-accused got higher sentences even though they pleaded not guilty. In short, the reviewing judge thought that the disparity in the sentences was not justified.

This court sees nothing wrong with the difference in the quantum of sentences meted out on the defendants. It is to be observed that disparities in sentences is allowed at law as long as the court

demonstrates the reasons for imposing different sentences on defendants who are jointly charged. In the instant case the court below gave reasons for imposing what appears to be a stiffer penalty for the defendant who had pleaded guilty to the count of housebreaking. Further, the court has observed that the convict herein is a repeat offender unlike the other defendants he was jointly charged with.

For the reasons given above the sentences on the defendant should not be disturbed and it is hereby confirmed.

**Pronounced** in open Court this 17th day of April 2002 at the Principal Registry, Blantyre.

  
F.E. Kapanda

**JUDGE**