



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CRIMINAL DIVISION

CONFIRMATION CASE NO. 89 OF 2023

(Being Criminal Case No. 170 of 2023 before the First Grade Magistrate Court sitting at Thyolo)

THE REPUBLIC

V

FATSANI ZINGA

Coram: Justice Vikochi Chima

Mr Rodney Mkweza, Senior State Advocate

Ms Doreen Kawisa, Senior Legal Aid Advocate

Mrs Moyo, Court Clerk

ORDER IN CONFIRMATION

Chima J

1. Fatsani Zinga was convicted of housebreaking contrary to section 309 of the Penal Code and also of theft contrary to section 278 of the Penal Code. He was sentenced to two years imprisonment with hard labour for the housebreaking and fifteen months imprisonment with hard labour for the theft. He pleaded guilty to the charges. The convict is a young man aged twenty-four years. He broke into the house of the complainant, who is his father, Mr Sosten Zinga, and stole a wheelbarrow, 75 kilograms of fertiliser, a blanket, a bucket and bananas. All the property was recovered except the fertiliser.
2. In mitigation, the convict stated that he committed these offences because his father made him work for him but never paid him for his services.
3. The magistrate rightly dismissed what the convict stated in mitigation as carrying no weight for purposes of lessening the convict's sentence, for, the magistrate remarked that the convict never reported his grievance to any authority, and further, that the convict had waited until the complainant was away before he broke into his house.

4. Having considered the strong mitigating factors of a plea of guilt, the lack of criminal record and the youthfulness of the offender and the recovery of the items; and weighing these against the grave nature of the offence, the magistrate sentenced him to two years imprisonment with hard labour for the housebreaking and fifteen months imprisonment with hard labour for the theft. The sentences are quite in order and I confirm them.

Made in open court this day the 13th of April 2023


Chima J