

## R. v. MOOTO.

## A CRIMINAL REVIEW CASE OF 1937.

*Escape—Penal Code section 101—absence of close supervision by prison warders—appropriate sentence in such circumstances.*

The Court when passing sentence upon a prisoner convicted of escape from lawful custody should consider the circumstances surrounding the escape.

See also *R. v. Sandonga Malicopo Lumbala* 2 N.R.L.R. 35.

Francis, J.: I called for this case because, with my knowledge of the conduct of district gaols in African territories, *prima facie* I consider a term of six months H.L. for the offence of escape from gaol to be a sentence unusually severe for what may be called an act of natural impulsion.

It is stated that the accused had drawn his rations and had been told to hurry along to his work at the D.C.'s house. The principal witness says, "I saw him go off in the direction of his work". There is no evidence to show that the accused was under proper guard at the time of his escape.

When he went to his work apparently conditions were such as to invite him to take his liberty. Was he very much to blame?

In my opinion the sentence is too severe, but in view of a previous offence of a like nature, I reduce it by three months only.