



**THE REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MOMBASA**

**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**

**PETITION NO. 5 OF 2018**

**ISAAC SAMUEL KILONZI.....PETITIONER**

**VERSUS**

**THE DIRECTOR OF PUBLIC PROSECUTIONS....RESPONDENT**

**JUDGMENT**

1. The Petitioner herein was charged and convicted for the offence of robbery with violence contrary to Section 296(2). That on the night of 21/10.2010 the Petitioner jointly with others not before court posing as police officers while armed with dangerous weapons namely a pistol, ironbars and hammers, attacked the victims, disarmed them and later tied them with ropes and proceeded to brake inside the premises and stole a computer monitor and cash totaling Kshs. 40,000/= property of the Matuga Constituency Development Fund.

2. The Petitioner was in the company of 5 others and was armed with dangerous weapons, which they used to threaten/assault some of the complaints. The incident happened at night.

3. Mr. Fedha. Learned counsel for the prosecution submitted that the Petitioner and others were armed with dangerous weapons, namely pistol, iron bars and hammers which they used to attach their victims, and should be sentenced to 18 years to serve as a warning to would be robbers.

4. The Petitioner has been in jail for 8 years. I have considered the Petitioner's mitigation and herewith set aside the death sentence, and in place thereof, I jail the Petitioner for a term of 16 years from the date of arrest.

5. Right of appeal in 14 days.

**Dated, Signed and Delivered at Mombasa this 12<sup>th</sup> day of March, 2020.**

**E. K. O. OGOLA**

**JUDGE**

In the presence of:

Mr. Fedha for DPP

Petitioner in person

Mr. Wangila holding brief Wamotsa for Petitioner

Mr. Kaunda Court Assistant