

REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL APPEAL NO. 175 OF 2016

BETWEEN

DANIEL GATHEMBA APPELLANT

AND

REPUBLIC RESPONDENT

(Being an appeal against the original conviction and sentence dated 2nd December 2016 in Traffic Case No. 689 of 2015 at Kiambu Chief Magistrates Court before Hon.S. Atambo, PM)

JUDGMENT

The appellant was charged with the offence of causing obstruction contrary to **section 53(1)** of the **Traffic Act (Chapter 403 of the Laws of Kenya)**. The particulars of the offence are that on 12th October 2015 at around 9.30 Pm along Kiambu – Nairobi road the appellant being the driver of motor vehicle registration No. KCA 356K, Isuzu Minibus did cause obstruction by stopping the said motor vehicle in the middle of the road in order to pick passenger which was dangerous to other road users.

The particulars of the charge stated that the vehicle was in the middle of the road. No such evidence emerged from PW1. He did not state where the vehicle was in the middle of the road in accordance with the charge.

The offence was not proved. Accordingly, I allow the appeal set aside the conviction and sentence. The appellant shall be refunded the fine.

DATED and DELIVERED at KIAMBU this 13th day of February 2018.

D.S. MAJANJA

JUDGE

Ms Chepngeno, Advocate for the appellant.

Mr Kinyanjui, Prosecution Counsel, instructed by the Director of Public Prosecutions for the respondent.