REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

CRIMINAL APPEAL NO. 103 OF 2017

BEJIGA JIGISSA SHUMIYE ……. APPELLANT

VERSUS

REPUBLIC …… RESPONDENT

(Being an appeal from original conviction and sentence in criminal Case No. 2198 of 2016 at Chief Magistrate's Court Kiambu)

JUDGMENT

1. The Appellant herein, Bejiga Jigissa Shimuye was tried on two counts but convicted on the first count which is Demanding money with menaces contrary to section 302 of the Penal Code. The particulars of the charge are that on diverse dates between 18th August 2016 and 3rd September 2016 at an unknown place within the Republic of Kenya he demanded USD 35,000 equivalent to Kshs. 3.5 million with menaces from **Harshil Kotecha** through an email address j.shimuye@yahoo.com via his email address harshi/13@hotmail.com with intent to steal from the said **Harshil Kotecha**.

2. The Appellant was sentenced to 5 years imprisonment. Aggrieved with the outcome, he filed an appeal to this court. The substance of his five amended grounds of appeal is that:

a. The trial magistrate in contravention of Section 65(8) and (9) of the Evidence Act irregularly admitted evidence of alleged phone call communication between the Appellant and the complainant.

b. The trial magistrate erred in law and fact by relying on irregularly admitted evidence of alleged email communication which was unauthenticated.

c. The trial magistrate erred in law and fact by overlooking contradictions in the prosecution case.

d. The trial magistrate erred in law and fact by ignoring the prosecution failure to produce essential witnesses and exhibits.

e. The trial magistrate erred in fact and law by improperly dismissing the Appellant's plausible defence.

3. The appeal was canvassed by way of written submissions. Regarding the first ground, the Appellant takes the view that the bulk of the prosecution case was based on telephone and text conversations between him and the complainant, which evidence was tendered through a police officer who is not qualified to tender such evidence under Section 65(8) and (9) of the Evidence Act. Moreover, that the cybercrime unit did not find any evidence implicating him. He cited the case of Charles **Matu Mburu v Republic (2014)eKLR** as regards the requirement for certification of call history data print out.

4. On the second ground, the Appellant took issue with the trial court's admission of emails produced in evidence by the complainant without confirming adherence to the conditions spelt out in Section 106(B) (1), (2) and (4) of the Evidence Act. He relied on the case of **Republic v Barisa Wayu Matuguda (2011) eKLR** and **Republic v Mark LLoydstevenson (2016) eKLR**.

5. Concerning the 3rd ground, the Appellant contended that there were material contradictions between the testimony of PW1 and PW2 as to the manner of communications between the Appellant and the complainant and that the evidence by PW1 did not disclose any demands for payment by the Appellant.

6. In support to the 4th ground, the Appellant asserts that his phone and related call print outs where not tendered as exhibits. Further, that a watchman mentioned in the evidence of PW4 was not called to testify. Under this ground, the Appellant introduces a further complaint that he was not supplied with witness statement and copies of documentary exhibits prior to the trial and that his right to a fair trial was thereby prejudiced. He cited the Court of Appeal decision in **Simon Githaka Malombe v Republic (2015) eKLR** in support of his contention.

7. The appeal was opposed by the Director of Public Prosecutions. Reiterating the facts of the case, the Director of Public Prosecutions argued that the oral and documentary evidence tendered at the trial was admissible and that in any event the Appellant did not contest the production of the documentary exhibits. The Director of Public Prosecutions contends that emails tendered were accompanied by a certificate as contemplated under Section 65 and 106 of the Evidence Act. Besides, these were merely corroborative of the key evidences being the oral testimonies by PW1 to 5 and that a conviction could still be secured through the oral evidence. With specific regard to the case of **Mark LLoyd Stevenson** the Director of Public Prosecutions contended that email evidence may be authenticated through oral evidence by the recipient. That in this case, the requirements of Section 106 were fully complied with concerning email evidence.

8. The Director of Public Prosecutions submitted regarding alleged inconsistencies in witness statements that the allegation was non-specific and besides, there is no requirement that witnesses must give similar verbatim narratives. Pointing to the record, the Director of Public Prosecutions asserts that the Appellant was furnished with witness statement. As to the alleged failure by the Director of Public Prosecutions to call certain witnesses or tender certain exhibits, the Director of Public Prosecutions contends there is no requirement on the number of witnesses who may be called in proof of a matter or that certain exhibits be tendered as each case has its own peculiar circumstances. The Director of Public Prosecutions relied on the decision in **John Wachira Muthike v Republic (2014) eKLR.**

9. Concerning the Appellant's defence the Director of Public Prosecutions urged the court to consider admissions to key facts made in the said defence regarding his relationship and communication with the complainant. Regarding the ingredients of the offence of Demanding money with menaces contrary to section 302 of the Penal Code several authorities including the Court of Appeal decision **Kimuri v Republic (1990) eKLR** was cited. Although a notice to seek enhancement of sentence and repatriation, was not served the Director of Public Prosecutions submitted that the sentence meted out ought to be enhanced, and an order made for repatriation of the Appellant.

10. The Court of Appeal for Eastern Africa outlined the duty of the first appellate court in In **Pandya -Vs- Republic [1957] EA 336** by stating that:

> **"On a first appeal from a conviction by a Judge or magistrate sitting without a jury the Appellant is entitled to have the appellate court's own consideration and views of the evidence as a whole and its own decision thereon. It has the duty to rehear the case and reconsider the witnesses before the Judge or magistrate with such other material as it may have decided to admit. The appellate court must then make up its own mind not disregarding the judgment appealed from but carefully weighing and considering it. When the question arises which witness is to be believed rather than another and that question turns on manner and demeanor, the appellate court must be guided by the impression made on the Judge or magistrate who saw the witness but there may be other circumstances, quite apart from manner and demeanor which may show whether a statement is credible or not which may warrant a court differing from the Judge or magistrate even on a question of fact turning on the credibility of witnesses whom the appellate court has not seen."**

11. The prosecution case was that the Appellant was an Ethiopian national. In February 2013 the Appellant was employed as acting Chief Finance Officer (CFO) with Kwale International Sugar Company Limited, one of the companies under Pabari Group of companies. He was confirmed as Chief Finance Officer six months thereafter. It would appear that the Appellant's relationship with the company, and in particular the Projects **Director Harshil Kotecha (PW2)** was strained by the late half of 2014. The relationship continued to deteriorate over benefits payable to the Appellant and the performance of his duties.

12. On 6/2/15, **PW2** called a meeting of Heads of Department and accountants. Present in the meeting were the Appellant**, PW2** and **Ashok Kumar (PW3).** Head of Human Resource and Administration in Pabari Group of companies. On that date, the issue of the Appellant's performance was raised, PW2 questioning his refusal to carry out certain assigned duties. On the same date, the Appellant tendered his resignation. The Appellant delayed handing over by demanding a termination letter from the company and when that demand was rejected the Appellant refused to hand over and had to be compelled to do so. He was issued with a ticket to depart to Ethiopia on 5/3/15.

13. It turned out that the Appellant had taken with him a hard disk containing sensitive company data and although he had been paid his dues, the Appellant held on to the hard disk. Through a third party, he was persuaded to travel to Kenya in May 2015 whereupon he demanded payment of 3 months salary in lieu of notice and service pay. He was paid these monies.

14. It is the prosecution case that the Appellant continued to demand for more payments and threatened that in default, he would leak company secrets. These demands were made through emails to **PW2** and phone calls and text messages to both **PW2** and **PW3**. He threatened to harm them and to expose the company. The Appellant received a total sum of USD 144,000 from **PW2's** company and signed petty cash vouchers **[Exhibit 1,2,3, Exhibit 9a – 9h].** During the last payment, he executed a letter of acknowledgement dated 12th August, 2016 for total sum of USD 144,000.

15. The demands for money did not stop and eventually the matter was reported to police. In September 2016 the Appellant was sent air ticket to fly to Nairobi ostensibly to receive payment from **PW2.** It was a trap laid by police. When the Appellant handed at JKIA on 26/09/16 he was arrested by **IP Munya of CID** headquarters who was investigating the case. His handwriting specimens and known writings were sent to the handwriting expert for analysis. The Appellant was arraigned in court.

16. In his sworn defence, the Appellant stated as follows. That he was an Ethopian national with 16 years work experience as an external auditor and project finance manager. He stated that he joined Kwale International Sugar Company in February 2013. The company was owned by different entities which are primarily investment groups. By the time of his promotion to Chief Finance Officer, he was working full time at the sugar company and also rendering financial services on contract to one of the investment groups in respect of a funding proposal.

17. Regarding the meeting of 6/2/15, he testified that **PW2** instructed him at the end of the meeting to approve payment of Kshs. 35 million from the sugar company, to Euro petroleum Limited and Pabari Distributors Limited. And that if he did not do so, to tender his resignation before 2.30 p.m. He declined to follow the alleged unlawful instructions and tendered his resignation on the same date by email. He also demanded his employment letter which had not yet been issued to him. He had taken issue with the employer's failure to process his salary

through the payroll and to pay government taxes amounting to KShs. 200Million.

18. Subsequent to his resignation, a meeting was called by **PW2,** the head of operations of Unifresh Exotic, **Paul Muriithi (PW1),** and Ashok Kumar **(PW3)** the Human Resource Officer and another person ended with his laptop being taken away from him through force. He was sent an air ticket to Ethiopia and ordered to vacate the company house on the same day. He travelled out of the country on the next day. That in May 2015, accompanied by a third party he attended a meeting called by **PW2** whose subject was negotiations. Nothing came out of the meeting and there followed email exchanges with **PW2** culminating in his flight to Nairobi on 26/9/16 when he was arrested.

19. He stated that though this emails before the court originated from his address, he did not send the offending emails. He contended that the charges were brought to compel him to take responsibility over certain questionable transactions and to admit concealment of company data.

20. Some basic facts are not in dispute. These include the Appellant's short stint in the employment of the Kwale Sugar Company which is a member of the Pabari Group of companies where the complainant **(PW2)** worked as Projects Director. There is no dispute that the Appellant resigned his position as Chief Finance Officer on 6th February 2015, just two years since joining the sugar company.

21. Issues arose during the handing over period but eventually the Appellant left the company. Admittedly there was a series of emails exchanged between the Appellant and the complainant, as well as phone conversations. The Appellant also travelled to Nairobi to a meeting with the Complainant (PW 2) in May, 2015 and on the date of his arrest, the Appellant had landed in Kenya intending to meet with **PW2.** There is no dispute that during this period the Appellant received cash payments from the former employer.

22. The key issues indispute were whether the Appellant demanded money with menaces with intent to steal from the complainant.

23. The Court of Appeal in the case of **Francis Macharia Kariuki v Republic [1993] eKLR** stated regarding the offence that:

> **"The evidence to support the charge must show that:**
>
> **1)The accused demanded a valuable thing.**
>
> **2) He demanded it with menaces or force; and**
>
> **3) He demanded it with intent to steal."**

24. The Court continued to observe that:

> **"It would appear that whether or not there is a demand is a question of fact; the language used may even be the form of a request.**
>
> **Moreover the language used and the surrounding circumstances must be looked at; see the case of Kagori v Republic [1967] EA 423. It is clear from the definition that the offence is complete when a demand is made. Whether payment is made or not is immaterial. Further, there must be a use of menace, threat or force capable of arousing fear……. The issue whether or not there was a menace cannot be divorced from the consideration as to whether there was a demand".**

25. In the case of **Michael Mukundi Thiongo and Another v Republic [1977] eKLR** the Court of appeal while dealing with the question of what constitutes a demand had this to say:

> **"As this Court held in Patel's case [Patel and Another v Republic [1946] 13 EACA 179:**
>
> **"The question as to whether the accused person's act amounted to a demand is purely one of fact, and as said by the court of Criminal Appeal in Republic v Studer (1915) 2 Criminal Appeal Rep 307.**
>
> **"It is not necessary that the language should be explicit; it may be in the language of a request. Surrounding circumstances ay show that, whatever the language employed, the words in fact amounted to a demand"**

26. The Prosecution relied on several pieces of evidence in the case; oral personal conversations, phone calls and emails exchanged between the Appellant the complainant. The Appellant's chief complaint on this appeal was that the email and phone – call evidence was irregularly admitted. First of all, oral evidence by **PW2 & 3** regarding telephone calls and text messages was not supported by call log data from the phone companies concerned. This evidence by itself could not be a basis to support the charge facing the Appellant. In a case where it is alleged that phone calls or text messages were used to communicate a demand or threat, it is important to furnish evidence from the telephone service providers to confirm such evidence.

27. That said, the prosecution did tender evidence in the form of emails in proving the demands made by the Appellant. It is true as the Appellant has submitted that the emails could only be relied on upon certification or authentication. It must be recalled, for purposes of this case, that the Appellant was not a stranger to the complainant and that even prior to the offending emails, the Appellant had, using the same email address communicated his resignation to the complainant through the latter's email address.

28. Indeed, while the Appellant denies having sent out the offending emails – he admits exchanging emails with **PW2**. If indeed someone else used his email address to communicate to **PW2,** he ought to have seen and been surprised by the responses sent to him by **PW2.** In any event, the fact that he arranged by email for two visits to **PW2** demonstrates that he had full access to his email address and mail sent through it.

29. Admissibility of electronic records is governed by sections 106B of the Evidence Act. The conditions to be satisfied under this section are set out in section 106B (2) which states:

> **(2) The conditions mentioned in subsection (1), in respect of a computer output, are the following—**
>
> > **(a) The computer output containing the information was produced by the computer during the period over which the computer was used to store or process information for any activities regularly carried out over that period by a person having lawful control over the use of the computer;**
> >
> > **(b) During the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;**
> >
> > **(c) Throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its content; and**
> >
> > **(d) The information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.**

30. From the judgment of the lower court, the trial magistrate was alive to these requirements, observing that **PW3** (erroneously identified as PW5) who printed the offending emails also certified the same under section 65(8) of the Evidence Act which relates to documentary evidence obtained from a computer as a print out or statement.

31. Section of the Evidence Act 65(8) states that:

> **In any proceedings under this Act where it is desired to give a computer print-out or statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say—**
>
> > **(a) Identifying a document containing a print-out or statement and describing the manner in which it was produced;**
> >
> > **(b) Giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;**
> >
> > **(c) Dealing with any of the matters to which conditions mentioned in the subsection (6) relate, which is certified by a person holding a responsible position in relation to the operation of the relevant device or the management of the activities to which the document relates in the ordinary course of business shall be admissible in evidence.**

32. A comparative reading of Sections 65(8) and 106 (B) (4) shows that the two sections have the same requirement in respect of the contents of the certificate to be prepared for purposes of documentary and electronic record evidence. The certificate tendered by **PW3** as Exhibit 10 fully complies with the requirements of Section 106B (2) and 106 B (4) and it matters not that the Section in the title of the certificate relates to documentary evidence derived from a printer as anticipated in Section 68(5) of the Evidence Act.

33. Further section 106(I) of the Evidence Act provides for a presumption in relation to electronic messages of which email is a part. The section provides that:

> **A court may presume that an electronic message forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission, but the court shall not make any presumption as to the person by whom such a message was sent.**

34. The offending emails in this case were identified by **PW2** and **PW3** and under the foregoing provisions, the trial court was entitled to presume that they were forwarded by their originator through an electronic mail server to the addressees in the form in-putted by the originator. Secondly there was evidence by **PW3** that he personally printed the emails on the instructions of **PW2.**

35. There is no doubt even from the resignation email written by the Appellant to **PW2** on 6/2/15 that his departure from the Sugar Company was acrimonious. There is believable evidence through **PW2** and **PW3** that the Appellant had to be compelled to hand over his duties and admittedly was forced to hand over his computer**. PW2** and **PW3** stated that the Appellant took with him the company 'hard disk which contained company data. This must explain the fact that the company pursued the Appellant through a third party Mr. Berhano culminating in a meeting in May, 2015.

36. According to **PW2** the Appellant despite having resigned and being paid his dues was demanding further payments and the company was compelled to pay the Appellant in order to secure release of the hard disk. The Appellant does not dispute the payments made to him as per the petty cash vouchers **Exhibit 1,2,3** and **9.** In any event, on 12th August, 2016 the Appellant confirmed in his own hand that he had received all his dues. He signed the acknowledgment tendered as exhibit 4 which stated that:

"This is to acknowledge receipt of all funds received including todays payment of USD 35,000 …… on all contractual and non- contractual dues which either Kwale International Sugar Company Limited or Pabari Group owe to me.

Thank you so much for all the support". (Signed)

37. This document was confirmed to be in the Appellants hand. The period of the offence herein is between 18th August and 3rd September 2016. The emails produced as **Exhibit 7 & 8** relate to this period. It is evident from the emails that the author was demanding more payments. In the email sent on 18th August 2016 he states inter alia:

" I have taken time and considered your request and decided to come on Monday afternoon August 22,2016

However my decision to come will never bring along change on the basic payment amount, unless the discussion will mainly focus on the payment modalities and the time frame.

" …… if you have any disagreement on the basic idea, please don't make any booking".

38. This theme runs through the emails thereafter which equally contain demands for air tickets from **PW2** and though only one has a specific amount stated, there is no doubt that all the emails are about money. One of the emails sent on 19/8/16 ends with a menacing question.

"You are not picking my phone calls, do you think that is the best solution for …..? (sic).

39. The email sent on 25/8/16 contains a clear demand for USD 35,000 "as part settlement of the phase two figure or as a loan that will be deducted from the figure that we are going to agree on". This request is described as a special favor to **PW2.** There is no doubt that the email sent on 28/6/16 is loaded with menaces as the writer appears displeased that **PW2** did not pick his calls. There is a definite threat in the last two sentences of the email if **PW2** fails to cooperate "towards the principle of mutual benefits". The email of 2/9/16 demands a response with "new good news the soonest or else…."

40. It further warns of undisclosed action and a warning that no further chance will be given. The 3 emails of 3rd September 2016 morning are even more explicit with demands for 2 percent benefit with loaded threats if the demands are not met. Finally at 11.36 am the author states that he cannot wait any more and that nothing would stop his undisclosed ruthless action to follow.

41. The trial magistrate considered the thread of emails in some detail before concluding in this judgment that:

"From the analysis of the letter and tone of the emails from the accused person, an average person can deduce an element of threats in case the demands he was making about payments to him was not forthcoming"

42. And contrary to what the trial magistrate noted, the Appellant did not dispute the email address attributed to him, or that he communicated through emails with **PW2.** He disputed sending the offending emails.

43. There is similar fact evidence through earlier emails and evidence by **PW1** to **PW3** that they were forced by the Appellant to pay him over 140,000 USD even though he had voluntarily resigned his position. The culmination of these payments was the letter of acknowledgment dated 12/8/16. It is clear from the evidence of **PW1** who participated in the meeting of the day, that the payments came about due to unjust demands by the Appellant. **PW1** testified that the Appellant made a scene on 12/8/16 when he learned that only USD 30,000 was available

44. **PW1, 2** and **3** were clear that at the time the Appellant held vital company information. **PW2** stated that the money demanded by the Appellant was not his dues but an extortion bid. The Human Resource Manager **PW2** said that the Appellant was only entitled to USD 4,650 which was transferred to the Appellant's account, **PW3** stating in cross examination that part of the reason for paying USD 144 000/- in instalments to the Appellant was that he threatened to reveal company secrets. The Appellant personally collected and signed for the instalments paid vide petty cash vouchers. In questions to **PW2** and his own defence the Appellant suggested that the sugar company was guilty of tax evasion.

45. In the circumstances, a fundamental question arises: who is the third party who used the Appellant's email address to send the offending emails to **PW2**? Looking at the full circumstances of this case and the *proved modus* operandi of the Appellant and his relationship with **PW2,** it cannot be true that he is not the author of the offending emails. If, as he says he was communicating with **PW2** in the material periods, the emails by **PW2** should have reached him. If indeed he was not exerting pressure or demanding any money or threatening the complainant, he ought to have raised the matter with authorities or with **PW2,** disowning the offending emails.

46. These emails are by a person familiar with **PW2, PW3** and others who were recipients, and with the business and are intended for the purpose of obtaining money from **PW2** using threats. The Appellant admitted that the complainant sent him a ticket to travel to Nairobi on 26/9/16. He was arrested after arrival at the airport. This is independent corroboration of the email demands that a ticket be sent to the author. Having signed an acknowledgement of receipt of all his dues on 12th August 2016, for what reason was the Appellant pursuing **PW2**?

47. There is no other plausible reason for the Appellant's visit in September 2016, after he had been paid his full dues per **Exhibit 4,** other

than the pursuit of the sustained demand for money from **PW2.** Considering all the available evidence the Appellant must be the author of the emails in Exhibit **7** and **8** which contain demands for money with menaces addressed to **PW2.** The intention was clearly to steal from **PW2** as the Appellant had already been paid a sum of USD 144,000 in August, 2016 which though disputed by the company was paid by the company in hopes that they would buy peace with the Appellant.

48. In the circumstances, the trial magistrate's findings cannot be faulted. There is no requirement for the prosecution to call any given number of witnesses to prove its case (see section 143 Evidence Act). The Appellant's defence was correctly rejected as the evidence presented by the prosecution displaced the denials therein.

49. As regards the alleged failure by the prosecution to provide the Appellant with witness statements or material prior to trial, the record of proceedings before the lower court shows that the first order in that regard was made by the court on the plea date (27/9/16). Subsequent to that date, the Appellant raised various demands to the court which necessitated the summoning of the investigating officer. On 9.12.16 the Appellant sought the supply of witness statements and he was remanded at Muthaiga Police station for that purpose. Although he was brought to court after a week (on 14.12.16) he did not complain again about the statements. After the trial commenced, he indicated his desire to proceed with the case to conclusion, objecting strongly to delays. In the entire trial he never raised the question of the statements again.

50. Thus I must agree with the Director of Public Prosecutions that by raising this question on this appeal the Appellant is hoping to benefit from the fact that the record has no positive statement that the statements were furnished. Judging from the conduct of the Appellant before and during the trial, the Appellant is not the kind of person to fail to raise the matter again if statements had not been furnished. His own written submissions in the court below at pages 4 to 7 made several references to witness statements by **PW1, PW2** and **PW3** as well as documentary exhibits tendered in the trial. Clearly the Appellant had these statements in his possession during the trial and the assertion to the contrary on this appeal is baseless. The appeal has no merit and is dismissed.

51. Regarding the Director of Public Prosecution's submissions on the second count, the Director of Public Prosecutions did not appeal the acquittal of the Appellant therein. And as stated earlier on, no notice was served to the effect that the Director of Public Prosecutions would be seeking enhancement of the sentence. This court did not therefore consider these matters.

52. However, the trial court ought to have borne in mind the provisions of Section 26A of the Penal Code while sentencing the Appellant. The section provides as follows:

> **"26A. Where a person who is not a citizen of Kenya is convicted of an offence punishable with Imprisonment for a term not exceeding twelve months the court by which he is convicted, or any court to which his case is brought by way of appeal against conviction or sentence may, by directions to the Commissioner of Police and the Commissioner of Prisons (including directions on how the order shall be carried out) order that the person be removed from and remain out of Kenya either immediately or on completion of any sentence of imprisonment imposed; but where the offence for which the person is convicted is punishable with imprisonment for a term exceeding twelve months, the court shall, where it is satisfied that the person may be removed from Kenya, recommend to the Minister for the time being responsible for immigration that an order for removal from Kenya be made in accordance with section 8 of the Immigration Act".**

53. Under the second part of the Section, the sentencing court is obligated, where it imposes a sentence beyond 3 years imprisonment against a person who may be removed from Kenya, to make recommendations to the minister responsible for immigration in that regard. In light of the fact that the Appellant was a foreigner, who on the date of conviction had no legal status allowing his continued stay in Kenya after sentence, and the nature of the offence for which he was convicted, the trial court ought to have made an appropriate recommendation in terms of section 26A of the Penal Code. In exercise of this court's discretion under section 354 of the Criminal Procedure Code, the court does recommend to the Cabinet Secretary responsible for immigration that an order be made that the Appellant be removed from Kenya upon completing his service, in accordance with the provisions of the Kenya Citizenship and Immigration Act.

DELIVERED AND SIGNED AT KIAMBU THIS 21ST DAY OF SEPTEMBER 2018.

In the Presence of:

The Appellant

Miss Ongaki for DPP

Court clerk – Kevin

C. MEOLI

JUDGE