



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**APPELLATE SIDE**  
**CRIMINAL APPEAL NO. 195 OF 2012**

*(From Original Conviction and Sentence in Criminal Case No. 109 of 2011 of the Senior Principal Magistrate's Court at Voi – S. M. Wahome, PM)*

VINCENT MUCHAWIA AUGUST ..... APPELLANT

- Versus -

REPUBLIC ..... RESPONDENT

**JUDGMENT**

1. The Appellant after trial before the Magistrate's Court was on 23rd December 2011 convicted of the offence of conspiracy to commit a felony contrary to Section 393 of the Penal Code. He was sentenced to five years imprisonment. He has presented an appeal against both the conviction and sentence but at the hearing he abandoned his appeal against conviction but presented his appeal against sentence.
2. I have noted that the Appellant was apprehended on 20th March 2011 and remained in custody through out the duration of his trial. He was finally sentenced as stated for five years imprisonment. He was sentenced on 23rd December 2011. He has been in custody since his sentence for two years and eight months.
3. In my judgment I have considered the submissions of the Appellant and I have considered the period he has been in custody. Having done so I find that the information before me is sufficient to allow the appeal against sentence.
4. An order is hereby issued that the Appellant's sentence shall be for a period already served. I order the Appellant to be set free unless otherwise lawfully held.

*Dated and delivered at Mombasa this 26<sup>th</sup> day of November, 2013.*

**MARY KASANGO**

**JUDGE**