

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

CRIMINAL APPEAL NO. 93 OF 2009

KASOKES LONGOLETINGAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal from the original conviction and sentence in Criminal Case No. 472 of 2008 Republic vs Kasokes Longoletiang & Maiwa Ratinyang in the Principal Magistrates' Court at Kabarnet by Hon. H.M. Nyaga Senior Resident Magistrate dated 8th June,2009)

JUDGMENT

1. The appellant, Kasokes Longoleting, was convicted on two counts for the offence of robbery with violence contrary to section 296(2) of the Penal Code. He was sentenced to death.
2. The sentence was handed down in respect of count 1 only. As regards count 3, the learned trial Magistrate ordered that the sentence be held in abeyance.
3. This appeal was consolidated with Eldoret High Court Criminal Appeal 92 of 2009 Maiywa Ratanyang v Republic. The appellant here and his co-accused in that other appeal were charged jointly and on similar counts. On 28th November 2013, and after re-evaluating the evidence in the lower court, we delivered judgment in Maiywa Ratanyang v Republic (supra) in the following terms-

“There are too many loose ends in the case put forward by the prosecution. It would thus be unsafe to uphold the conviction.

However, if we had upheld the conviction, we would have upheld the sentences. We say so because each human being has one life. Therefore, if there be more than one death sentence in respect to one person, the trial court would be expected to hand down one sentence, and to hold the other in abeyance.

In the final analysis, the convictions are quashed on both counts, and the sentences set aside”.

4. For the same reasons, this appeal is also allowed. The conviction and sentence against the appellant is hereby quashed and set aside. The appellant shall be set free forthwith unless held for some other lawful cause.

It is so ordered.

DATED, SIGNED and DELIVERED at ELDORET this 2nd day of December 2013

FRED A. OCHIENG

G.K. KIMONDO

JUDGE

JUDGE

Judgment read in open court in the presence of

Mr.....for the appellant.

Mr.....for the State.

Mr..... Court Clerk.