



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT BUSIA
CRIMINAL APPEAL NO 92 OF 2011
SIMON SIDINDI OCHUMBOAPPELLANT
VERSUS
REPUBLICRESPONDENT

J U D G M E N T

7/3/12

Before: Kimaru J.

Mutai – court clerk

Mr. Okeyo for State

Juma for the appellant

Simon Ochumbo – appellant

OKEYO

I have looked at the entire circumstances of the case, I conceded to the appeal. The evidence on record did not support the charge.

JUMA

This was a family dispute that got out of hand. It ought not to have been criminalized. The charge ought to have been creating disturbance.

COURT

In light of the concession by the State counsel, and this court having gone through the proceedings, it was clear that the evidence adduced by the prosecution witnesses did not support the charge. The case was actually a family dispute. In the premises therefore the appeal filed by the appellant is allowed. His conviction by the trial magistrate is quashed. The one year sentence imposed on him is set aside. The appellant is ordered set at liberty unless otherwise lawfully held. The security deposited in court is hereby ordered released to the surety.

Dated , signed and delivered on 7th March 2012

L. KIMARU
JUDGE