



REPUBLIC OF KENYA

High Court at Meru

Criminal Appeal 164 of 2010

SILAS ITHALI MUROKI..... APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Criminal Appeal against both conviction and sentence by Hon. Andayi PM at MAUA CM Criminal Case No. 1578 of 2010 delivered on 28.1.2011)

J U D G M E N T

The Appellant **SILAS ITHALI MUROKI** is charged with one count of attempted robbery with violence contrary to section 296(2) of the Penal Code. He was convicted of the offence and sentenced to suffer death. Being aggrieved by the conviction and sentence he filed his appeal.

The Appellant relied on 8 grounds of appeal.

- 1. That the trial magistrate erred in law and facts in failing to find that there was an existing grudge between the appellant and the complainant (PW1)**
- 2. That the learned trial magistrate erred in law and facts in failing to question the prosecution in absence of vital witnesses.**
- 3. That the learned trial magistrate erred in law and facts in failing to find that the prosecution gave contradictory and conflicting testimonies..**
- 4. That the learned trial magistrate erred in law and facts in making presumptions and taking into account extension matters which had no basis in evidence tendered before him to make a wrongful conviction.**
- 5. That the learned trial magistrate erred in law and facts in failing to find that the trial suffered some procedural irregularities.**
- 6. That the learned trial magistrate erred in law and facts in failing to note that the provisions of section 49(1) (f) of the constitution was flouted.**
- 7. That the learned trial magistrate erred in law and facts in dismissing and disregarding the unsworn defense without any cogent reasons.**
- 8. That the grounds herein has been drafted in absence of certified copy of the trial proceedings. I pray to be served with the same to enhance me draft further supplementary grounds of appeal.**

DATED AT MERU THIS 22ND DAY OF NOVEMBER, 2012.

**LESIT, J
JUDGE.**

**J.A. MAKAU
JUDGE.**