



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**Criminal Appeal 140 of 2005**

**PETER MUCHARA NGUGI.....APPELLANT**

**VERSUS**

**REPUBLIC.....PROSECUTOR**

**JUDGMENT**

**PETER MUCHARA NGUGI** (the Appellant) was upon trial on a charge of robbery with violence contrary to **Section 296(2)** of the **Penal Code** convicted and sentenced to death. He has appealed against both the conviction and sentence.

At the hearing on 17<sup>th</sup> April 2008 and 3<sup>rd</sup> July 2008, Mr. Mugambi learned state counsel conceded the appeal on the ground that the Appellant was kept in police custody for about 3 months before he was taken to court.

Despite ample time having been given to the prosecution they have not proffered any explanation for this gross violation of the Appellant's constitutional rights. Although there was overwhelming evidence against the Appellant, on the authority of the Court of Appeal decision in **Paul Mwangi Murunga Vs Republic, Criminal Appeal No. 35 of 2006**, we have no choice but to allow this appeal. We therefore quash the Appellant's conviction and set aside the sentence and order that he be set free forthwith unless otherwise lawfully held.

DATED and delivered at Nakuru this 18<sup>th</sup> day of July, 2008.

**D. K. MARAGA**

**JUDGE**

**M. MUGO**

**JUDGE**