



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**

**CRIMINAL APPEAL 204 OF 2008**

**JOHN KARIUKI WAINAINA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

On his own plea of guilty to the charge of being in possession of cannabis sativa contrary to Section 3(1) of the Narcotic Drugs and Psychotropic Substances Control Act Cap 248 of the Laws of Kenya convicted and sentenced to six years imprisonment. He has appealed against that conviction and sentence. In his submissions before me the Appellant contended that the charge against him was trumped up by his mother because he refused to give his sister's son land. On sentence the same is harsh and prays that the same be reduced.

Mr. Mugambi for the state conceded the appeal on the ground that the Government analyst report was not produced to show that the substances the appellant was found with was indeed cannabis sativa. That being the case the conviction of the Appellant irregular and cannot be allowed to stand. I therefore allow this appeal, quash the conviction and set aside the sentence. The Appellant shall be set free forthwith unless otherwise lawfully held.

**DATED and delivered at Nakuru this 27<sup>th</sup> day of November, 2008.**

**D. K. MARAGA**

**JUDGE**