

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

Criminal Appeal 79 of 2005

PAUL MWANGI MUNENE.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT OF COURT

The appellants were charged with another Co-accused who was acquitted and therefore released. The evidence relied upon by the Trial Magistrate to convict appellants was that given by the Co-accused. Although the Trial Magistrate did address himself as to the reliance of a Co-accused evidence. He did not seek corroboration. The story given by the Co-accused was itself hearsay. The person who gave him the information was not called to court to confirm. The State Counsel does not support the conviction and sentence saying that the evidence was not safe or sufficient to support the conviction.

In this case I agree with the learned State Counsel. I allow this appeal, quash conviction and set aside sentence and order the appellants both of them to be set at liberty forthwith unless otherwise lawfully held.

Dated this 14th February, 2007.

J. N. KHAMINWA

JUDGE