

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

Criminal Appeal 46 of 2006

HARUN MURIITHI NGUNGI.....APPELLANT

VERUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant pleaded guilty to the offence charged contrary to section 359 Penal Code. Thus saving court time. He was found with a forged currency Note of Shs.1000/=. The note was examined by government experts and found to be forged. Appellant was a first offender. He said he was sorry. The sentence prescribed for the offence of 7 years imprisonment. The appellant was given 3 years which he now says is excessive and harsh. He has been in custody since arrest 19/1/2006 and he has now served a period of almost one year. He appears remorseful. He says he was given the note. He did not forge it. It is true that the Trial Magistrate is the proper person to assess punishment but taking the circumstances of this case, I am of the view that the appellant has learnt his lesson for the period he has spent in jail. He is young person.

I set aside the sentence of imprisonment ordered by the Trial Magistrate and substitute the same with a unconditional discharge. The appellant shall be set free forthwith unless otherwise lawfully held.

Dated this 1st March, 2007.

J. N. KHAMINWA

JUDGE