

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (NAIROBI LAW COURTS)

Criminal Revision No. 353 of 2005

SAFARI JOHN

NGOTHO.....ACCUSED

VERSUS

REPUBLIC.....PROSECUTOR

RULING

This is a revision relating to Mombasa Chief Magistrate's Court Criminal Case No. 795 of 2005.

Safari John Ngotho was in that case charged with the offence of robbery with violence contrary to section 296(1) of the Penal Code. He pleaded not guilty to charge. After trial he was convicted and sentenced to death. That is an illegal sentence. Having perused the lower court sentence I am satisfied that the learned Senior Resident Magistrate who tried the case inadvertently imposed that sentence thinking he was dealing with an offence under section 296(2). In the circumstances I set aside that sentence and substitute therefor a sentence of five (5) years imprisonment to run from the 19th December 2005.

DATED and delivered this 13th day of February 2006.

D. K. MARAGA

JUDGE