

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL APPEAL 93 OF 2006

ZEBERIO KINYWA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The Appellant was charged under a section that does not create an offence. When he appeared before the learned trial magistrate for plea, the same was not taken as required. No facts were read out to the Appellant before he was convicted. After conviction he was given an illegal sentence in that he was sentenced to a jail term greater than the one stated by law.

In the circumstances I allow this appeal quash the conviction and set aside the sentence. The appellant should be set free forthwith unless otherwise lawfully held.

DATED and delivered this 28th day of March 2006.

D. K. MARAGA

JUDGE