



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MACHAKOS**

**Criminal Case 39 of 2006**

**(From Original Conviction and Sentence in Criminal case No. 513 of 2005 of the Resident Magistrate's court at Kilungu).**

**JOSPHAT KYALO MUASYA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**26.6.2006.**

**Coram**

**D.A. Onyancha**

**Principal State Counsel for respondent**

**CC-Mueni**

**JUDGMENT**

Appellant appeals against the conviction and sentence in relation to an offence of being found in possession of cannabis Sativa. No Government Chemist's Report for proof of the substance in appellant's possession was produced to support the facts and charge against appellant. Mr. O'mirera for state does not support the conviction and the sentence. I have carefully considered the appeal. I agree that in the absence of such report the plea was defective. Accordingly the conviction cannot be left to stand. It is hereby quashed and the sentence of two years jail is hereby set aside. Appellant is accordingly set at liberty forthwith unless otherwise lawful held in prison. It is so ordered.

D.A. ONYANCHA

JUDGE.

26.6.06