

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

Criminal Appeal 92 of 2004

JOSEPH KITHUMBU NJIRU.....APPELLANT

VERSUS

REPUBLICRESPONDENT

JUDGMENT

The State Counsel concedes this appeal on ground that the charge sheet is defective contrary to Section 135 CPC on duplicity.

Also the evidence is not sufficient to count the accused with the offence the Trial Magistrate in his judgment says this conviction was arrived and on a rebuttable presumption. I find the prosecution not having proved its case beyond reasonable doubt.

I quash the conviction and set aside the sentence. The appellant shall be set at liberty forthwith unless otherwise lawfully held.

Dated 27TH November, 2006.

J. N. KHAMINWA

JUDGE