

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
Criminal Appeal 161 of 2005

ALI BABU RASHID ALAMIN APPELLANT
V E R S U S
REPUBLIC RESPONDENT

*(Being an appeal from Original Criminal Conviction and sentence in Criminal Case
No.2781 of 2005 of Chief Magistrate's Court at Mombasa – B. Olao, CM)*

Coram: Before Hon. Justice J.W. Mwera
Appellant in person
Ademba for Respondent / State
Court clerk - Kazungu

JUDGEMENT

The appellant was charged with a total of eight (8) counts. Count 1 to 4 concerned forgery contrary to Section 349 Penal Code. They are not in question here since the appellant pleaded guilty, however in sum it was alleged that between 12th March 2004 and 30th July 2005 at Mombasa, he forged a U.K Visa, U.K Immigration stamp plus a Kenya Immigration exit and entry stamps on his passport to use them as genuine.

The other four (4) charges under Section 13(1) (d) of the Immigration Act (Cap. 172) alleged that the appellant used the above documents on 30th July 2005 purporting them to have been properly issued / endorsed. He also pleaded guilty to these and in an apparent proper plea, the learned Chief Magistrate sentenced the appellant to pay fines Kshs. 100,000/- on each of Counts 1 to 4 in default 12 months imprisonment and Kshs. 10,000/- on each of counts 5 to 8 in default 2 months imprisonment. The prison terms would run consecutively. In all they would come to 58 months imprisonment.

The appeal was on sentence only and the appellant thought the accumulated period was harsh and excessive. The learned state counsel, although remarking that the sentences were lawful, would rather they were to run concurrently and the court agrees. The sentences are ordered to run concurrently which means serving a total of 12 months imprisonment with effect from 5th August 2005.

To that extent the appeal is allowed.

Judgement accordingly.

Delivered on 14th November 2005.

J. W. MWERA

JUDGE