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IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL APPEAL NO. 682 OF 1998

(FROM ORIGINAL CONVICTION AND SENTENCE IN CREMINAL CASE NO. 167 OF 1998 OF
THE
RESIDENT MAGISTRATE'S COURT AT GATUNDU)

SIMON KIHARA KIHANYA.....APPELLANT
VERSUS
REPUBLIC..... RESPONDENT

JUDGMENT

Appellant was convicted for the offence of personating a police officer contrary to section 105 (b) of the Penal code and sentence to 30 months imprisonment on 28.5.98.

He appeals against conviction and sentence.

The appellant had pleaded not guilty to the offence. The trial then started and one police officer gave evidence. Appellant did not cross examine him. Appellant then told court that he wished to change plea. The charge was then read which he admitted. The facts were thereafter read which he admitted. The plea of guilty was unequivocal and the appeal against conviction has not merit.

He was treated as a first offender. He said he was drunk and it is true that he was drinking in bar and had refused to pay saying he is a CID officer.

He has served 1 1/2 hears imprisonment which is sufficient punishment.

Consequently I dismiss the appeal against conviction. But I allow the appeal against sentence to the extent that I reduce the sentence of 30 months imprisonment to the term already served.

The result is that appellant shall be released forthwith.

E. M. Githinji
Judge
22.12.99