

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

APPELLATE SIDE

CRIMINAL APPEAL NO. 147 OF 2000

(From Original Conviction and Sentence in Criminal Case No.1638 of 1999 of the Senior Principal Magistrate's Court at Malindi – J. Manyasi, Ms – SPM)

CHANGO MWENI SALIM alias AMAN CHARO.....APPELLANT

=V E R S U S=

REPUBLIC.....RESPONDENT

16/3/2004

Khaminwa, J.

Maraga, J.

Chege – Court Clerk

Mitoto – Court Clerk

Mr. Mondah – for State

Appellant – in person – ready to proceed.

Mr. Mondah:- I notice this trial was conducted by both unauthorized person and an Inspector of Police. On that ground I concede the appeal.

Joyce Khaminwa, J.

I do not ask for retrial. The charge sheet indicates offence under Section 296(1). There was only a threat. No actual violence and he was alone. He started trial in 1999 and was convicted in 2000.

In my opinion the Appellant has served sufficient punishment. I do not ask for a retrial.

Joyce Khaminwa, J.

In the circumstances, the appeal is allowed. We hereby quash conviction and set aside the sentence. The Appellant shall be set at liberty forthwith unless lawfully held.

Dated at Mombasa this 16th day of March, 2004.

JOYCE KHAMINWA

J U D G E

D. K. MARAGA

AG. J U D G E