



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MOMBASA  
APPELLATE SIDE  
CRIMINAL APPEAL NO. 414 OF 2001**

**(From Original Conviction and Sentence in Criminal Case No.716 of 2000 of the Chief Magistrate's Court at Voi – E.K. Mwaita, Esq. – DM.II Prof.)**

**JOSEPH KANG'ETHE.....APPELLANT  
=V E R S U S=  
REPUBLIC.....RESPONDENT**

**J U D G M E N T**

In the circumstances and upon hearing submissions of counsel, I declare the trial a nullity since the State does not ask for a retrial.

I quash conviction and set aside the sentence in both counts. I order the Appellant to be set free forthwith unless otherwise lawfully held.

Dated at Mombasa this 3rd day of May, 2004.

**JOYCE KHAMINWA**

**J U D G E**