

IN THE HIGH COURT OF KENYA
AT MOMBASA
APPELLATE SIDE
CRIMINAL APPEAL NO.365 OF 2003

(From Original Conviction and Sentence in Criminal Case No.501 of 2003 of the Senior Resident Magistrate's Court at Kilifi – P.M. Mutahi, Esq., - S.R.M.)

NYULE MASHA MASHA.....APPELLANT
=V E R S U S=
REPUBLIC.....RESPONDENT

J U D G M E N T

In view of the fact that the trial was conducted contrary to Section 85 Criminal Procedure Code I declare the trial and appeal a nullity.

However, the State prays for retrial on several grounds advanced above. The Appellant has nothing to say. The offence charged is of manslaughter and sentence was 4 years imprisonment from November 2003.

There is sufficient evidence to support a conviction on a Retrial. For justice to be done in this case I quash I quash conviction and set aside sentence in this appeal.

I order for a Retrial at Kilifi before a different Magistrate with jurisdiction.

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

JOYCE KHAMINWA

J U D G E

Appellant to appear in Kilifi Court on 10th May, 2004.

Remand in custody in the meantime.

JOYCE KHAMINWA, J.