

IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL APPEAL NO. 328 OF 2002

JAMES WAMBUGU.....APPELLANT
=V E R S U S=
REPUBLIC.....RESPONDENT

J U D G M E N T

21/6/04

Coram: Before Khaminwa, J.

Mr. Onda – for State

N/A – for the Appellant

Court Clerk – Chege

Appellant was released on Presidential Amnesty.

Mr. Monda

The trial was prosecuted by a Police Constable Safari. He took active part and prosecuted witnesses. I do concede the appeal for that reason. Police Constables are not qualified under Section 85 C.P.C. The trial is a nullity. I will not pray for re-trial. The Appellant has served substantial period of sentence and has been released on Presidential Amnesty.

Court

In the circumstances narrated by the State Counsel the appeal is allowed.

Dated this 21st day of June, 2004.

JOYCE KHAMINWA
J U D G E