

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

CRIMINAL APPEAL NO. 365 OF 2003

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.