



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**Criminal Case 252 of 2003**

**REPUBLIC ..... PROSECUTOR**

**- V E R S U S -**

**SAMMY NGARE DAVID ..... ACCUSED**

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

This appeal is against sentence only. The offence arose during the political elections and the appellant asked for leniency in court saying he was 22 years old and was a first offender. Now in his grounds he pleads that he is truly repentant and he was led to commit offence because of his poor upbringing. He was sentenced to 3 years imprisonment from 3.1.2003 he is about to complete 2 years of the sentence.

I have considered the record the nature of the offence and the altitude now shown by the appellant. His age is also relevant and that he pleaded not guilty. In the circumstances the Trial Magistrate should have considered a light non custodial sentence to enable him to reform. In the circumstances I find the sentence excessive. I allow the appeal and set aside the sentence of 3 years imprisonment and substitute the same as follows. The appellant shall serve imprisonment sentence which terminates today 25.10.04 when the court rises and shall be set at liberty forthwith unless held for other reasons.

Dated this 25<sup>th</sup> day of October, 2004.

J.KHAMINWA

**JUDGE**

**25.10.04**

Khaminwa – Judge

Chege- Court clerk

Mrs. Mwangi – State Counsel

Appellant – present

Judgment read in their presence in open court.

**J. KHAMINWA**

**JUDGE**