

IN THE HIGH COURT OF KENYA

AT EMBU

CRIMINAL APPEAL NO. 9 OF 2003

PETER MUCHIRI GICHOBİAPPELLANT

VS

REPUBLIC.....RESPONDENT

JUDGMENT

1. I have listened to submissions by the Appellant and have carefully read the record. In the totality of this case, the dispute should have been resolved by way of Civil Proceedings and not Criminal Law.

2. PW1 and PW2 have their remedy pursuant to conditions set out in the Sale Agreement. Their evidence was irrelevant to the Charge. To keep the Appellant in custody a minute longer would be gross injustice.

3. I quash the conviction, set aside the sentences and release the Appellant unless he is otherwise lawfully held. Orders accordingly. Dated and delivered in open court on this 25th Day of November 2004.

Appellant present in person

Mr. Omwega for Republic

I.LENAOLA

AG. JUDGE