

IN THE HIGH COURT OF KENYA AT NYERI

CRIMINAL APPEAL NO. 204 OF 2003

PETER MUHORO WAITHAKA.....APPELLANT

Versus

REPUBLIC.....RESPONDENT

***(Appeal against judgment by J. B. A. Olukoye,
Resident Magistrate, in the Chief Magistrate's
Court at Nyeri, Criminal Case No. 268 of 2003)***

JUDGMENT

Counsel for the Appellant Mr. King'ati, points out and the State Counsel, M/S Ngalyuka, concedes that the trial of the Appellant was a nullity because the prosecutor was not qualified in terms of Section 85 (2) C.P.C.

Accordingly, the said trial is hereby declared a nullity and the appeal allowed.

The conviction of the Appellant be and is hereby quashed. The sentence imposed upon him set aside and it is further ordered that the Appellant be released forthwith unless lawfully detained in some other cause.

Dated this 2nd day of December 2004.

J. M. KHAMONI

JUDGE