



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO.1070 OF 2002

**(From Original Conviction and Sentence in Criminal Case No.19
of 2001 of the Senior Resident Magistrate's Court at Kikuyu**

GEOFFREY MBUGUA MBURU..... APPELLANT

VERSUS

REPUBLIC..... RESPONDENT

JUDGEMENT

The appellant one Geoffrey Mbugua Mburu filed an appeal against both conviction and sentence meted out against him in Criminal Case No.19/2001 Kikuyu which was delivered to him by Madam A.N Ongeru on the 25th day of September 2002.

In his memorandum of Appeal the appellant cited five grounds. He put written submissions in support of the appeal at the time of arguing the appeal.

The learned state counsel did not support the conviction on the grounds that the evidence adduced at the lower Court did not support the charge of handling from my perusal of the lower Courts proceedings it is noted that the appellant was acquitted of the offence of Robbery with violence but convicted of handling stolen property contrary to section 322 (2) of the Penal Code.

I am satisfied with the appellant's submissions as supported by the state counsel that the trial magistrate erred in finding the appellant guilty of handling stolen property without appreciating his explanation as to how he came to have possession of the said stolen vehicle.

Taking everything into account I uphold the appellant's appeal against both the conviction and the sentence. I allow the appellant's appeal against both conviction and sentence accordingly. I set aside the sentence and the conviction.

R.M. MUTITU

JUDGE

9/1/2003

Delivered dated and signed in the presence of Mr. Okello for the state and in the presence of the appellant.

R.M. MUTITU

JUDGE

9/1/2003