



**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL APPEAL ON. 799 OF 2002**

**From Original Conviction and Sentence in Criminal Case No. 5114 of 2001  
of The Snr. Principal Magistrate's Court at Thika**

**PETER MAINA THUKU.....APPELLANT  
VERSUS  
REPUBLIC.....RESPONDENT  
J U D G M E N T**

The appellant was convicted of the offence of store breaking and stealing C/s 306(a) of The penal code and sentenced to two years imprisonment with 12 strokes of the cane. He appealed. The shop of Pw1 was broken into and some skins stolen. The appellant was arrested with a sack containing 4 skins and hides. Pw1 identified the same as his. It is instructive that pw1 identified only two out of the four skins as his and this enhanced his credibility.

The appellant was arrested the same night when the shop of pw1 was found broken into. The evidence was overwhelming and conviction well founded. The sentence of 2 years imprisonment was not high but 12 strokes of the cane were on the higher side. I reduce the same to two strokes. Otherwise, this appeal is hereby dismissed. Orders accordingly.

**Dated and delivered at Nairobi this 19th day of February, 2003.  
MBOGHOLI MSAGHA  
JUDGE**