



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL APPEAL NO 537 OF 2000

(From Original Conviction and Sentence in Traffic Case No. 1288 of 2000
of The Principal Magistrate's Court at Machakos)

PETER KARUGA ALIAS MURIU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The appellant was among nine people charged with three counts of Robbery with violence C/s 296(2) of The Penal Code. The record shows that all but the appellant denied the offences. On conviction the appellant was sentenced to death. This appeal arises out of that conviction.

In his appeal the appellant says he did not understand either Kiswahili or English. He was also not warned of the consequences of pleading guilty to the charge.

We have gone through the original record. It is clear the charge was read to the appellant in Kiswahili language. At the hearing of this appeal he addressed the court in Kiswahili language fluently. We have no doubt that he knows and understands the language well.

In answer to count one, he said

“It is true I participated in the robbery but my co-accused were not involved.”

In count two he said “It is true”. The record then reads as follows:

“Court: The third accused has been warned that he offences charged are capital offences and carry a mandatory death sentence. The charge will be read to him again. Charge read over and explained to the third accused in Kiswahili and he replies as follows:

Count 1: It is true P.G.E.

Later in the afternoon one the same date the plea was taken, detailed facts were given to the court by he prosecutor to which the appellant answered “The facts are correct” he was treated as a first offender as his records had not been received.

In mitigation the appellant addressed the court thus:

“I am an orphan. I know the seriousness of the offence. I have a wife and children. My colleagues here are suffering for nothing as I just pointed them out.

The court then proceeded to sentence the appellant and in so doing said:

“Twice the accused has been warned of the seriousness of the charge and what entails a conviction. On each of the three counts he is sentenced to death”

It is clear to us that he plea was an unequivocal admission of the offence and the record cannot be faulted. Section 348 of the Criminal Procedure code is clear that no appeal arising there from shall be allowed except as to the extent or legality of the sentence. The sentence is mandatory and legal.

We see no merit in this appeal which is hereby dismissed. Right of appeal explained.

Dated and delivered at Nairobi this 4th day of June 2003.

MBOGHOLI MSAGHA

JUDGE

R.M MUTITU

JUDGE

Mr Bofwoli for the state