



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**  
**HIGH COURT CRIMINAL APPEAL NO. 32 OF 2000**  
**(ORG. D.M.'S KIGUMO CR. C. 655/99)**

**JAMES MBURU.....APPELLANT**  
**VERSUS**  
**REPUBLIC.....RESPONDENT**  
**JUDGMENT**

I have read the evidence recorded by the trial Magistrate in light of the submissions before me by the State Counsel Mr. Obuo. I find that the conviction was proper as there was sufficient evidence. This appeal against conviction is therefore dismissed.

The sentence of four years imprisonment with hard labour plus three strokes of the cane should not be considered harsh for an offence like this one. But due to the apparent ill health by the Appellant and the fact that he was arrested about 25th-26th June, 1999, I think the Appellant has learned a lesson.

Accordingly that sentence is hereby set aside and substituted with one that will enable the Appellant to be released tomorrow plus one stroke of the cane. Dated this 18th day of September, 2003.

**J. M. KHAMONI**  
**JUDGE**