

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

HIGH COURT CRIMINAL APPEAL NO. 102 OF 2002

ISAACKO MARICHO.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT
(Appeal from a judgment of the
Resident Magistrate's Court at Karatina,

A. B. L. Musiega, R.M. dated 20th July, 2002 in

Criminal Case No. 271/01)

Before Hon. J. M. Khamoni Judge
Mugo Court Clerk
No appearance for Appellant

Mr. Oluoch for Respondent

Mr. Oluoch: Appellant does not require to be present.

Concede the appeal.

(1) On evidence, mere suspicion.

(2) Prosecution by an unqualified prosecutor.

J. M. Khamoni

Judge
JUDGMENT

The above being the position and on the basis of the Court of Appeal's decision of the case of *Roy Richard Eliriema & Another*
Vs
Republic Cr. Appeal No. 67 of 2000 at Mombasa;
the trial in this appeal was a nullity.

Accordingly this appeal is allowed. The conviction quashed and the sentence set aside. No retrial.

The Appellant be set at liberty forthwith unless lawfully detained in some other cause.

Dated this 10th day of November, 2003.

J. M. Khamoni Judge