

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO.968 OF 1999

**(From Original Conviction and Sentence in Criminal Case No.17057 of
1999 of the Principal Magistrate's Court at Makadara)**

JOSEPH MBITHI BARASA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The appeal is only against the sentence of 5 years imprisonment plus 15 strokes imposed against the appellant for the offence of robbery, contrary to section 296(1), P.C. for which he was convicted and sentenced on 11th August, 1999. The appellant says that this was his first offence.

I note that the original record of the Makadara Resident Magistrate's court which recorded conviction and the sentence has not been traced and the E.O of the said court says that there is not possibility of tracing it. As earlier noted the appellant is serving the sentence since 11th August, 1999. I believe him when he says that he had no previous conviction.

I reduce that prison sentence to a period served and the strokes to one stroke which be inflicted and the appellant be released forthwith thereafter.

Dated and delivered at Nairobi this 20th day of March, 2002.

V.V. PATEL

JUDGE

W.K. TUYOIT

JUDGE