

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO 580 OF 2001

**(FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL
CASE NO 2249 OF 1999 OF THE CHIEF MAGISTRATE'S COURT AT
NAIROBI)**

**JOHNSON JOSHUA KINYANJUI.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT**

JUDGMENT

The appellant Johnson Joshua Kinyanjui was convicted of two counts of making a document without authority and forgery contrary to sections 357(a) and 349 respectively of The Penal code. He was then sentenced to 18 months imprisonment on each of the two offences. The terms of imprisonment were ordered to run concurrently.

Being aggrieved by the said conviction and sentence, he lodged an appeal. At the hearing of the appeal, the learned counsel for the Republic conceded the same and with respect I agree. It was the appellant who was supposed to instruct Pw1 on the alleged documents and there was no higher authority to whom he was accountable or answerable. Several documents including computer prints were produced. However, no expert evidence was adduced to verify their authenticity. Equally, a charge of forgery cannot stand in the absence of evidence of a document examiner. The Land Registrar, on the other hand, did not dispute the signatures.

For the foregoing reasons, this appeal must be allowed. The conviction is quashed and sentence set aside. The appellant is out on bail pending the outcome of this appeal. The terms of his release are hereby vacated. Orders accordingly.

Dated and delivered at Nairobi this 30th day of May, 2002.

A. MBOGHOLI MSAGHA

JUDGE