

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

HIGH COURT CRIMINAL APPEAL NO. 1193 OF 2001

FROM ORIGINAL CONVICTION(S) AND SENTENCE(S) CRIMINAL

**CASE NO. 2122 OF 1999 OF THE CHIEF MAGISTRATE'S COURT AT
NAIROBI)**

JOYCE MAKAKA.....APPELLANT

VERSUS

REPUBLIC.....REPUBLIC

JUDGMENT

The appellant was convicted of the offence of fraudulent false accounting C/s 330(b) of the Penal Code and sentenced to pay a fine of Kshs. 10,000/- in default to serve 8 months imprisonment.

Being dissatisfied with the said conviction and sentence she appealed. At the hearing of this appeal, the learned counsel of the republic conceded the same and with respect I agree. There was no intention whatsoever on the part of the appellant who in fact readily admitted having made the entries in question. Her admission in my view is to be construed as an honest fact which enhanced her credibility.

It is also clear that entries by the appellant were to be verified by her superiors which in itself made her work more of a procedural step than anything else. This is a party who should have been made a prosecution witness but unfortunately ended up in the dock.

For those reasons the appeal is allowed, conviction quashed and sentence set aside. If the fine was paid the same should be refunded to the appellant forthwith. Orders accordingly.

MBOGHOLI MSAGHA

JUDGE

30TH MAY 2002