

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO. 1212 OF 2000

**(From Original conviction and sentence in Criminal Case Traffic
No.4119 of 1998 of the District Magistrate's Court at Kikuyu)**

**JAMES GAI THO.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT**

J U D G M E N T

The appellant James Gaitho was on the 5th May, 2000 convicted by Hon District Magistrate Mr. Oletuka in Kikuyu Resident Magistrate Lower traffic Case No.4119 of 1998 with the offence of careless driving contrary to section 49(1) of the Traffic Act Cap.403 Laws of Kenya.He appealed against conviction and sentence on the ground that the appellant was not issued with the article of the intended publication by..... as required by section 50 of the Traffic Act Cap 403 Laws of Kenya. The learned state counselhas conceded to appellants appeal on the ground that he was not served with the notice of intended prosecution as required by Section 50 of the Traffic Act. The issuance of Notice of intended prosecution under section 50 of the Traffic Act Cap 403 Laws of Kenya is

I therefore allow the counterclaim appeal. I ... the conviction and set aside sentence imposed on him. If the appellant paid the fine I order that he be refunded.

Dated and delivered on this 18th October, 2002 in

**.....
W.K. TUIYOT
JUDGE**