

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO.1293 OF 2001

**(From Original Conviction and Sentence in Criminal Case No.1223 of
2001 of the Chief Magistrate's Court at Nairobi)**

STEPHEN MUGWANJA MWAURA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The appellant Stephen Mugwanja Mwaura was on the 4th December, 2001 convicted by the learned Senior Resident Magistrate Mrs Mlanga at the Nairobi Chief Magistrate court criminal Case No.1223 of 2001 with three counts. Two counts of making a document without contrary to section 357(a) of the penal code and in both counts sentenced to 5 years imprisonment. 3rd count obtaining with false pretence contrary to section 313 of the penal code and was sentenced to 2 years imprisonment. Sentence to run concurrently. He has appealed against convictions and sentences on the ground that there were no sufficient evidence to warrant his conviction.

The learned state counsel Mr. Okumu opposed the appeal against the conviction and sentences on the grounds that there was sufficient evidence adduced by the prosecution At lower court that of the appellant to warrant his conviction. I have read the appellant written submissions of appeal. I have heard the submission of the learned counsel Mrs.Okumu. I have also read the proceedings of the lower court as well as the judgment of the learned trial magistrate. I found that the prosecution moved its case All reasonable doubt against the prosecution. The evidence of the prosecution at the lower court of the appellant with quote credible at The judgment of the learned trial magistrate s quite proper The learned trial magistrate addressed herself of the points of law and fact and arrived the right decision when she convicted the appellant.

The sentenced ... on the appellant was fair but not excessive. For the above stated reason, I hereby dismiss the appellant appeal and the conviction ... I confirm the convictions not..... By the learned trial magistrate.

Dated and delivered in November, at this 1st day of October, 2002.

W.K. TUIYOT

JUDGE