

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL APPEAL NO. 784 of 2001

**FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL
CASE NO. 749 OF 2000 OF THE SR MAGISTRATES COURT AT**

KAJIADO

**MICHAEL LOT.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT**

The learned counsel for the state concedes this appeal and with respect I agree.

The evidence adduced did not support the charge laid against the appellant and I believe the police had all the time to read the statements of the witnesses but for unknown reasons did not file the right charge in this case failing to present a felony.

The appellant has served a substantial part of the sentence imposed and any substitution at this stage may be prejudicial.

The foregoing being the case, this appeal is allowed conviction quashed and sentence set aside.

Unless otherwise lawfully held the appellant shall be set free forthwith.

MBOGHOLI MSAGHA

**JUDGE
25th November, 2002**

