

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

CRIMINAL APPEAL NO. 441 OF 2001

From original conviction and Sentence in Criminal Case No. 3808 of 2000

of The Snr. Principal Magistrate's Court at Kiambu

JAMES OUMA MUTUKU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGEMENT

The learned counsel for the republic concedes this appeal and with respect I agree. The evidence of identification and corroboration was lacking and the defence advanced by the appellant was plausible.

A reasonable doubt existed in the entire case which should have been accorded to the appellant. The convictions in my judgment were most unsafe. Accordingly this appeal is allowed, conviction quashed and sentence set aside. The appellant shall be set free forthwith unless otherwise lawfully held.

Orders accordingly.

Dated and delivered at Nairobi this 7th day of November, 2002

MBOGHOLI MSAGHA

JUDGE`