



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CRIMINAL CASE NO. 747 OF 2001**

From original conviction and sentence in criminal case no. 641 of 2001 of  
the Chief Magistrate's Court at Thika

**NGUGI GICHUHI NJERU.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

The appellant was convicted of the offence of Robbery c/s 296(1) of the Penal Code in count one and sentenced to three years imprisonment. He was also convicted of the offence of malicious damage to property c/s 339 of (1) of the penal Code and sentenced to six months imprisonment. The sentences were ordered to run concurrently. He appealed.

Pw1 and pw2 knew the appellant before. It was a case of recognition and on mistaken identity can be alleged. The charge of robbery was proved. The evidence of pw3 proved the charge of malicious damage to property. Both counts were proved.

On sentence, corporal punishment is a component of the sentence under section 296(1) of the Penal Code. The learned trial magistrate should have imposed the same. And so is he order for police. Supervision.

In view of the foregoing, this appeal is hereby dismissed. In addition to three years imprisonment, the appellant shall receive two stokes of cane and be subject to police supervision for five years after completion of the prison term.

Orders accordingly.

**MBOGHOLI MSAGHA**

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**JUDGE**

**17/12/2002**