

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

HIGH COURT CRIMINAL APPEAL NO. 945 OF 2001

(From Original Conviction(s) and sentence(s) in Criminal Case No. 556 of

2001 of the Chief Magistrate's Court at Thika.

DAVID KIMANI NJUGUNA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The appellant was convicted of the offence of stealing c/s 275 of the Penal Code and sentenced to three years imprisonment. This appeal arises from the said conviction.

The complainant who was illeterate was involved in a road traffic accident. He was subsequently paid compensation for the injuries sustained. He and the complainant, who was his nephew, opened a account at Post Bank. They jointly withdrew the money forming the subject matter of the charge herein, to enable the complainant buy some land. The appellant took all the money and the land was never bought.

In his defence he admitted taking part of the money for assisting the complainant pursue the claim. The money was not his. He was not the one who was injured. The opening of a joint account was to assist the complainant who was illeterate. The offence of stealing was proved beyond doubt. This appeal lacks merit.

The same is hereby dismissed. It is so ordered.

Dated and delivered at Nairobi this 11th day of December, 2002.

MBOGHOLI MSAGHA
JUDGE