

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO.499 OF 2001

**(From Original Conviction and Sentence in Criminal Case
No.1754 of 2001 of the Senior Principal Magistrate's Court at**

Kibera:

**MORANGA ABUSA.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT
JUDGMENT**

The appeal is only against the sentence of nine months imprisonment promptly dished out by the learned Magistrate after he convicted the appellant on his plea of guilty for driving a motor vehicle without due care and attention contrary to section 49(1) of the Traffic Act, Cap.403 on 20th June 2001. Mr. Mogeni the learned advocate for the appellant pointed out that there is no provision for a custodial sentence for a first offender for this charges. With respect, I agree and so does the learned lady State Counsel, Miss Shiundu.

The appellant was extremely careless in driving the matatu Reg. No.KAL 108H, Nissan at the material time thereby causing damage to other three motor vehicles along Ngong road at the time. The appellant was a first offender and he pleaded guilty, which went his favour somewhat.

ORDER:

The prison sentence is set aside. The appellant is fined Shs.4,000/- in default three months imprisonment.

DATED and DELIVERED at NAIROBI this 28th June 2001.

V.V. PATEL

JUDGE