



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL APPEAL NO.425 OF 1999**

**(FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL**

**CASE NO.1137 OF 1997 OF THE RESIDENT MAGISTRATE'S COURT**

**AT NAIROBI)**

**MICHAEL NGUGI KANYUA ..... APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**RULING**

Michael Ngugi Kanyua (the appellant) was charged with stealing by agent contrary to Section 238(c) of the Penal Code in that on diverse days between 14th August and 5th December, 1996 at Buru Buru Phase I in Nairobi, jointly with Simon Muturi Ngugi, being agents to Major Rama Mwangombe, stole Shs.565,466/50 which they had received for and on account of the said Major Rama Mwangombe. He was convicted on 24.2.99 and sentenced to serve four years imprisonment. He filed this appeal on 28th April, 1999 against both conviction and sentence through M/s NYABERI OMEYOYO & CO. Advocates.

The appeal was admitted to hearing on 25th May, 1999 but unfortunately, from then up till now it has never been heard. The appellant has substantially contributed to this problem by either not attending court or his advocates not coming up to court at all.

Today is a perfect example. This appeal was fixed by Hon. Justice Mitey on 25th May, 2001 for hearing today in the presence of the appellant and his advocate Mr. Gacau Kariuki. The appellant has duly appeared but the said Mr. Gacau Kariuki advocate is not here. According to the appellant Mr. Gacau Kariuki reportedly told him that he (Mr. Kariuki) will not attend court today unless he is paid money as part of his legal fees. If this is true then Mr. Gacau Kariuki has acted improperly, discourteously towards the court, unprofessionally and unethically. For this an explanation is obviously called for from him.

The point is this, the hearing of this appeal is being held up by this appellant and his advocates. This must stop. Thought I will give the appellant time to get Mr. Kariuki back on track, I want this appeal to be heard and concluded next week. I therefore adjourn the hearing to the 27th June, 2001 at 9.00 a.m. The appellant's a bond of Shs.300,000, is hereby extended till the 27th June, 2001.

This ruling be typed and served on the firm of M/s Gacau Kariuki & Co. Advocates Nairobi for their information and as a Notice for the hearing of this appeal.

**Their explanation to reach me by Monday 25th June, 2001.**

**A.G.A. ETYANG'**

**JUDGE**

**22.6.2001**