

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

APPELLATE SIDE

CRIMINAL APPEAL NO.549 OF 2000

(Being an appeal from Original Conviction and Sentence in Criminal Case No.2199 of 1997 of the Chief Magistrate's Court at Mombasa – A.O.Muchelule, CM)

SAMUEL OTIENO AKANDA ONYANGO APPELLANT

VERSUS

REPUBLIC RESPONDENT

JUDGMENT

In the lower Court the appellant, Samuel Otieno Onyango and David Matundura Omare were convicted and sentenced in Criminal Case No.2199 of 1997. The offences convicted were on 4 counts under Section 357(a) Penal Code and Section 280 Penal Code.

David Matundura Omare was able to process his appeal against conviction and, sentence which was heard by this Court as Criminal Appeal No.546 of 2000 and judgment was delivered on 20/12/2000. In that appeal the appellant pursued only appeal against sentence having abandoned other grounds. The Court upheld conviction and sentence on the first 3 counts and reduced imprisonment term of 4 years to one of 2½ years.

In this appeal Samuel Otieno A. Onyango through his counsel has abandoned all his other grounds and has pursued only that against sentence. Counsel then submitted that the Court should consider the matter in view of that other judgment in Criminal Appeal of the co-accused and order accordingly.

The result is therefore that the judgment on appeal shall be similar namely the conviction is upheld. The sentence of 15 months for each counts 1, 2, and 3 is upheld.

The sentence on Count 4 of 4 years imprisonment is hereby reduced to a period of 2½ years imprisonment.

Sentences to run concurrently.

Dated at Mombasa this 28th Day of August 2001.

J. KHAMINWA

COMMISSIONER OF ASSIZE

