

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

CRIMINAL APPEAL NO. 880 OF 1999

**(FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL
CASE NO. 653 OF 1997 OF THE PRINCIPAL MAGISTRATE'S COURT**

AT NYAHURURU)

EKENO LORUBUIN.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

These appeals are consolidated. On 31st July, 2001, the learned counsel for the Republic conceded these appeals. Being satisfied that the appeals should be allowed, this court quashed the convictions and set aside the convictions. However the reasons were reserved to this day.

It is clear from the record that Pw1 and Pw2 gave hearsay evidence. The learned trial magistrate also relied upon the retracted statements of appellant Nos.1 and 3 of to arrive at the convictions.

There was no corroborations of the said evidence and there was a reasonable doubt which the learned trial magistrate ought to have given to the appellants.

For the foregoing reasons the appeals were allowed.

Dated and delivered at Nairobi this 25th day of September, 2001

MBOGHOLI MSAGHA

JUDGE

A.G.A. ETYANG