



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CRIMINAL DIVISION  
CRIMINAL APPEAL NO.922 OF 1999

(From Original Conviction and Sentence in Criminal Case  
No.165 of 1999 of the Senior Magistrate's Court at Kajiado).

SAUEL NGAO OLE BETUYI.....APPELLANT

VERSUS

REPUBLIC .....RESPONDENT

**J U D G M E N T**

The appellant was convicted on the first four counts for Robbery with Violence, contrary to section 296(2), P.C. and sentenced to death.

On the 5th and the 6th counts he was convicted of possessing the hand made gun and two live ammunitions respectively.

The appellant has now admitted to us that he committed all the six offences but has asked us to substitute the convictions on the first four counts for Robbery, contrary to section 296(1), P.C.

The evidence was that all the four robberies were committed at the same place and time on 19th February, 1999.

The home made gun and the two live ammunitions were found in his possession on 18th April, 1999 and he was arrested.

We note that the evidence in the lower court was that the 1st complainant was robbed of his motor vehicle, Isuzu Tougher plus Sh.700/= cash, while the 4th one was robbed of his motor cycle make Honda and a wrist watch.

The 2nd and 3rd complainants were robbed of cash Sh.5,905/= and Sh.600/= respectively.

It was in the evidence that although the complainants were threatened during the course of the robberies none of them was injured at all. Further that the motor vehicle, Isuzu Tougher, Reg.No.KAB, 113Q was recovered.

Bearing in mind the nature of the evidence as a whole, it is our considered view that this is a suitable case for the substitution of the convictions in the first four counts for Robbery, contrary to section 296(1), P.C.

The learned State Counsel M/S Ambasi has no objection to it either, with respect we agree.

The appellant was in remand for 4 months. His previous conviction for malicious damage in 1982 was not

relevant. There is no remission for robbery sentence.

Order:

We substitute the convictions on each of the count Nos. 1,2,3 and 4 for Robbery, contrary to section 296(1), P.C. and set aside the death sentences. We sentence the appellant to three years imprisonment with effect from 25th August, 1999 plus one stroke on each of the said four counts. The sentence of 12 months imprisonment on each of the 5th and 6th counts to run concurrently stands.

Dated and delivered at Nairobi this 29th day of October,2001.

**G.P. MBITO**

**JUDGE**

**V.V. PATEL**

**JUDGE**