

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO.1444 OF 1993

**(From Original Conviction and Sentence in Criminal Case
No.3624 of 1997 of the Principal Magistrate's Court at
Machakos)**

JOSEPH MUTETI KING'OO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The appellant has now admitted that he robbed the complainant as charged but has prayed for the substitution of the conviction for Robbery, contrary to section 296(1), P.C. The evidence was that the appellant and one another robbed the complainant who was known to her of her basket containing cash Sh.3,000/=.

The appellant's crony hit the complainant during the course of the robbery. The medical evidence was that the complainant received soft tissue injury and some bruises as a result.

Bearing in mind the nature of the robbery we consider this to be a proper case for the substitution. The complainant's injury was classified as harm and she was robbed of Sh.3,000/=.

The learned State Counsel Miss Ambasi does not object the substitution either. There is no remission for robbery sentence. The appellant had no previous conviction and was in remand for about fifteen months.
Order:

We substitute the conviction for Robbery, contrary to section 296(1), P.C. and set aside the death sentence. We sentence the appellant to four years imprisonment with effect from 15th November, 1998 plus two strokes.

Dated and delivered at Nairobi this 24th day of October, 2001.

G.P. MBITO

JUDGE

V.V. PATEL

JUDGE