



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
CRIMINAL APPEAL NO.791 OF 1999
**(From Original Conviction and Sentence in Criminal Case
No.1151 of 1998 of the Chief Magistrate's Court at Nakuru).**

SAMUEL MBUGUA KARANJA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

CONSOLIDATED WITH

CRIMINAL APPEAL NO.793 OF 1999

**(From Original Conviction and Sentence in Criminal Case
No.1151 of 1998 of the Chief Magistrate's Court at Nakuru).**

JACKSON MAINA NJOROGE.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

Criminal appeal Nos. 791 and 793 of 1999 are consolidated.

Both appellants have now admitted that they robbed the complainant as charged. They have prayed for the substitution of the conviction for Robbery, contrary to section 296(1), P.C.

Both appellants were charged for robbing the complainant on the night of 28/29th June, 1998 of a motor vehicle Ford Cartina and a few other items, the total value being Sh.200,000/=.

The alternative count against the 2nd appellant, Jackson was that of handling stolen property, contrary to section 322(2), P.C.

The evidence at the trial in the court below was that the two appellants jointly with others, armed with runguns and simis robbed the complainant at about 1 a.m. on the night of 28th/29th June,1998 as stated in the charge. The complainant was roughed up during the course of the robbery but there was no evidence that he suffered any injury.

We note that the motor vehicle the complainant was robbed of was recovered in Mwariki estate where it was abandoned.

Some other items were also recovered.

Considering the overall nature of this robbery, we are of the view that it would be proper to substitute the convictions as prayed for. The learned State Counsel Miss Ambasi does not object it.

The appellants had past clean records and were in remand for nearly a year, There is no remission for robbery sentence.

Order:

We substitute the conviction against each of the two appellants, for robbery, contrary to section 296(1), P.C. and set aside the death sentences. We sentence both appellants to four years imprisonment with effect from 15th June, 1999 plus two strokes each.

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

G.P. MBITO

JUDGE

V.V. PATEL

JUDGE