

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL APPEAL NO. 230 OF 2000

HASSAN HAMADI ABDALLA APPELLANT

VERSUS
REPUBLIC RESPONDENT

RULING

The appellant has applied to this court that he be allowed to put in anew piece of evidence that is an O.B. of Diani Police Station in respect of entries related to the earliest report made to the police as touching his identity and arrest. He states that the complainant's lied to the trial court about him and that even in their earliest report his name or description of his identity was not given to the police.

This court has examined the O.B. entries numbers:-

3 of 18.11.99

7 of 18.11.99

54 of 19.11.99 and

67 of 19.11.99

The entries do not reveal that the complainant or anybody on his behalf, who reported to the Diani Police Station, mentioned his name or gave a description of identity which could relate to him. This court rules therefore that the appellant be allowed to have the O.B. referred to above put in under S. 358 of the Criminal Procedure Code. The same be done through the trial court in the normal way.

ORDER

Let the trial court Mombasa Criminal Case No. 3822 of 1999, file be returned the court that tried it and let the trial Magistrate or another Magistrate n his behalf comply with S. 358 (2) of the Criminal Procedure Code and of S. 358 of Criminal Procedure Code as whole. Thereafter the file should be returned to this court for the fixing of this appeal for a hearing. Dated and delivered this 29th day of November, 2001.

D. A. ONYANCHA
JUDGE