



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE  
HIGH COURT CRIMINAL APPEAL NO 30 OF 1999

(From Original Conviction(s) and sentence(s) Criminal case No. 1450 of  
1998 of the SNR. Principal Magistrate's Court at Kibera)

DANIEL NGENGA NGANGA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The appellant was convicted of two offences. The first was un natural offence c/s 162(a) of the Penal Code and the second was being in possession of Public stores c/s 324(2) of the Penal Code.

On conviction the appellant was jailed for 3 years in count one and 12 months in respect of count two. Sentences were ordered to run concurrently. He appealed against both the conviction and sentence. Pw1 gave graphic events of what transpired between him and the appellant. He was accosted by the appellant, who was armed with a knife, and his trousers forced down. Pw1 did not shy away in describing what followed. He knew the appellant before, as a neighbour, and informed his mother of the encounter on the same day.

Dr. Kamau who subsequently examined Pw1 confirmed the injuries sustained by him. In his defence the appellant avoided any mention of the offence he was charged with.

In respect of count two, the appellant was found with a Kenya Army badge in his pocket. He gave no explanation for that possession. Section 324(2) of the Penal Code is clear. He had no defence to that offence. In my judgment conviction was safe, the sentences were lenient. I see no merit in the appeal.

Accordingly this appeal is dismissed.

Order accordingly.

Dated and delivered at Nairobi this 22nd day of November, 2001

MBOGHOLI MSAGHA

JUDGE