

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL APPEAL NO. 190 OF 1999

**(From Original Conviction and Sentence in Criminal Case
No.1234 of 1998 of the Principal Magistrate's Court at
Kakamega).**

ALEX NASIR SALIMAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The appellant now admits that he robbed the complainant as charged in the 1st count but has prayed us to substitute the said conviction for Robbery, contrary to section 296(1), P.C.

The evidence was that the appellant robbed the complainant on 29/8/98 of us clothes 160, Kshs.1880/-, on wrist watch and a long trouser.

In the course of the robbery the appellant was injured on his head and right hand. However, the said injuries were not serious and were classified as harm.

Having evaluated the evidence we find that this is a proper case for the substitution asked for. The learned State Counsel M/s Ambasi agrees. The appellant had no previous count. He was in remand for about five months. There is no revision for Robbery sentence.

ORDER

We substitute the conviction against the appellant for Robbery, contrary to section 296(1), P.C. and set aside the death sentence. We sentence the appellant to 3½ years imprisonment with effect from 5th May, 1999 plus 2 strokes. The sentence of 2 years imprisonment for possessing cannabis sativa to run concurrently.

**Dated and delivered at Nairobi this 2nd day of November,
2001.**

G.P. MBITO

JUDGE

V.V. PATEL

JUDGE