



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CRIMINAL APPEAL NO 95 OF 2000**

**(FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL  
CASE NO 1672 OF 1999 OF THE CHIEF MAGISTRATE'S COURT AT  
THIKA.)**

**HARUN GACHERU GATHUNGU.....APPELLANT**  
**VERSUS**  
**REPUBLIC.....REPUBLIC**

**J U D G M E N T**

The appellant was convicted of the offence of manslaughter and sentenced to five(5) years imprisonment. He appealed against both the conviction and sentence.

When the appeal came up for hearing, the appellant intimated to the court that he only wished to appeal against the sentence. In that case the appeal against conviction should and is hereby dismissed.

The appellant was jointly charged with his wife and son. The latter two were sentenced to serve three(3) years probation period. No reasons were given by the learned trial magistrate for treating them favourably compared to the appellant herein.

The sentence upon the appellant was imposed on 14th January, 2000. As at that time the appellant had been in custody since 1st October, 1997. He has also served atmost two years of the period of imprisonment imposed by the learned trial magistrate.

In my judgment, I have considered that the appellant's co-accused were placed on probation. He has also served a considerable period in remand and prison custody.

I am of the view that this has been sufficient the appeal against sentence by reducing the same to the period already served by the appellant so that he shall secure his release forthwith.

Order: Appeal against sentence allowed to the period already served. The appellants shall be set free forthwith unless otherwise lawfully held.

**Dated and delivered at Nairobi this 14th day of November, 2001**

**MBOGHOLI MSAGHA**

**JUDGE**