



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL APPEAL NO. 27 OF 2019**

**DENNIS OMONDI OWUOR.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT1**

*(Appeal from the judgment, conviction and sentence delivered on 16<sup>th</sup> April 2019*

*at UKWALA vide Ukwala SRM S.O. case No 51 of 2018*

*by Hon C.IAGUTU SRM)*

**JUDGMENT**

1. The proceedings from the trial Court are observed to have been irregularly conducted. The record does not show the language in which some of the witnesses testified and whether the Accused person understood the proceedings now that he says he understands Dholuo, on appeal.
2. The defence evidence does not show the language the Accused person testified in. This is contrary to Section 198 of the Criminal Procedure Code as read with Article 50 (2) (m) of the Constitution. Accordingly I find that the trial of the Appellant was vitiated. The conviction is quashed and sentence set aside.
3. The Appellant shall be retried by the same Court in compliance with Sections 197 and 198 of the Criminal Procedure Code and Article 50(2)(m) of the Constitution.
4. The Appellant shall be held at Siaya G.K. Prisons and produced before Ukwala Principal Magistrate's Court for retrial on 9.3.2020.
5. Orders accordingly.

**Dated, Signed and Delivered at Siaya this 4<sup>th</sup> day of March, 2020.**

**R.E. ABURILI**

**JUDGE**