

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRA 24 OF 2018

ALOISE KAREITHI THIAENE.....APPLICANT

VS

REPUBLICRESPONDENT

JUDGMENT

The appellant Aloise Kareithi Thiaene appealed against the conviction and sentence in Tigania SRM CR.C.No. 118 of 2018 on the grounds set out in the petition of appeal and sought that conviction and sentence be set aside and he be released and set at liberty.

On casual perusal of the proceedings in the lower court exhibit that the language of court was not indicated when charge was read to the appellant. It is not indicated which language accused understood. It is not shown whether appellant responded when charge was read to him before the facts were read by the prosecutor.

It is not shown whether appellant was present in court. The handwritten proceedings are not consistent with the typed and certified proceedings which show facts were read whereas the handwritten proceedings don't indicate facts were read. It is signed that recoveries are before court but no particulars and quantities. It is also not shown how the alleged recoveries were disposed off and/or stored.

I do find the plea was not unequivocal and therefore allow the appeal. The conviction is quashed and sentence set aside. Appellant is set at liberty forthwith unless otherwise lawfully held.

HON. A.ONG'INJO

JUDGE

JUDGEMENT SIGNED, DELIVERED AND DATED THIS

8TH DAY OF MAY 2018.

In the Presence of:

Applicant:- N/A

Respondent:-N/A

Order

Notice of Judgment to be given to state and to Officer in Charge GK prison holding appellant.

HON. A. ONG'INJO

JUDGE