



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**CRIMINAL APPEAL NO. 53 OF 2012**

**PETER OLE SIKOKI ..... APPELLANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**(From original Conviction and Sentence in Criminal Case No. 484 of 2011 of the Senior resident Magistrate's Court at Wundanyi – Hon. Orenge - SRM)**

**JUDGMENT**

The Appellant **PETER OLE SIKOKI** was Convicted and Sentenced to four (4) years imprisonment for the offence of office breaking and stealing contrary to section 306 (a) of the Penal Code.

The particulars being that on the night of 6th and 7th day of November, 2011 at fly over Bar office building in Mwatate Location within Taita-Taveta County, jointly, with others not before the Court broke and entered therein and stole eleven (11) colour Television sets the property of **PETER NYANGE MWAEGWA**.

The grounds are that in the entire proceedings there is no mention of the sixth Accused and the only person who mentioned him was the 1st accused.

Miss Mwaura for the state did concede the appeal on the grounds that there was no sufficient evidence to Convict the appellant.

Upon perusal of the evidence before the Court I do find that nothing was recovered from the sixth Accused who is the appellant in this case. Nobody saw him break into the office building in question.

It is the Complainant who alleged that the 3rd to 6th Accused were mentioned by the 1st Accused. PW 3 did allege that the 5th and 6th Accused were arrested at the scene. PW 4 did testify to the effect that the 5th and sixth Accused were not found with anything.

There is no evidence to link the appellant with the offence of office breaking and stealing. The Conviction was not safe. It is quashed and the Sentence set aside. The appellant is set at liberty unless otherwise Judgment read and delivered this **6th** day of **November, 2013**.

.....

**M. MUYA**

**JUDGE**

**6TH NOVEMBER, 2013**

**In the presence of:-**

Learned State Counsel Miss Ogweno

Learned Counsel for the Defence absent

Court clerk Musundi