

REPUBLIC OF KENYA

IN THE HIGH OF KENYA AT MOMBASA

Criminal Appeal 80 of 2012

SAMMY KAMANZA CHIWAYA APPELLANT

=VERSUS=

REPUBLIC RESPONDENT

(From Original Conviction and Sentence in Criminal Case No. 47 of 2011 of the Senior Resident Magistrate's Court at Mariakani: D.M. Machage – S.R.M.)

RULING

The Applicant herein has applied through his advocate **MR. MUSHELLE** to adduce additional evidence during his appeal. The application was opposed by **MR. MUREITHI** learned State Counsel. I have considered the Notice of Motion as well as the annexed supporting affidavit. In my view the said application to adduce additional evidence does have merit. I will therefore allow the same in terms of Section 358(1) of the Criminal Procedure Code. The additional evidence to be relied upon will be adduced during the hearing of the appeal in the High Court.

It is so ordered.

Dated and Delivered in Mombasa this 7th day of September 2012.

M. ODERO
JUDGE

In the presence of:

Ms. Adagi holding brief for Mr. Mushelle

Mr. Onserio for State