



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**APPELLATE SIDE**  
**CRIMINAL APPEAL NO. 998 OF 1998**

**(From original conviction and sentence in criminal case No. 4246 of  
1995 of the Senior Resident Magistrate's court at Nairobi: ( A.N.  
Ongeri (Mrs.)**

**JAMES MACHARIA NJORE.....APPELLANT**  
**VERSUS**  
**REPUBLIC.....RESPONDENT**

**JUDGEMENT**

The appellant was originally charged with two counts of stealing Contrary to Section 275 of the Penal Code and one count of obtaining registration of a land title deed by false pretences Contrary to Section 320 of the Penal Code.

After a full trial, the appellant was convicted in respect of all the three charges and sentenced to 3 years imprisonment on each count of stealing and 2 years imprisonment on the third count.

Being aggrieved by the said conviction and sentence the appellant appealed. At the hearing of this appeal the learned counsel for the Republic conceded the appeal but as I am not bound by the said concession, as the first appellate court, it is my duty to evaluate the whole evidence afresh and come to independent conclusions. This I have done. In the end I have found myself in agreement with the learned counsel for the Republic. I adopt the same reasons which he gave and considering that there are civil proceedings still pending in respect of the same subject matter, I elect to say no more. To do so may prejudice the rights of the parties in the said civil proceedings.

Accordingly, this appeal is hereby allowed, conviction quashed and sentence set aside. The appellant is on bail pending appeal. The appeal having been allowed, the terms of bail are accordingly spent and vacated. Orders accordingly.

**Delivered and dated at Nairobi this 25th day of March, 1999.**

**A. MSAGHA MBOGHOLI**

**JUDGE**

**Mr. Kanyi for the appellant**

**Mr. Gikonyo for the State**