

IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

CRIMINAL APPEAL NO. 524 OF 1998

**(From Original Conviction/Sentence and in Criminal Case No. 2980
of 1997 of the Chief Magistrate's Court at Nairobi: J.W. Lesiit (Mrs))**

JAMES KAMUNYE MWANGI.....APPELLANT

Versus

REPUBLIC.....RESPONDENT

Coram: Osiemo J.

Mr. Muira advocate for the appellant

Respondent -Mrs. Shikuku for the State

P.O. -NA

Mr. Onduma -Court Clerk

JUDGEMENT

The appellant was convicted with an offence under Section 313, Section 349, and Section 357 (b) of the Penal Code. he was sentenced to 1 year, 2 years and 2 years imprisonment respectively. His appeal to this court is against sentence only. The appellant was a first offender and he is aged about 26 years. Although the appellant admitted that he had altered the figure Sh.500/- to read Sh.10,500/- he had only intended to withdraw Sh.400/- leaving a balance of Sh.100/-.

This is a suitable case for a non-custodial sentence. I allow the appeal, set aside the sentences for counts 1, 2 and 3 respectively and substitute the sentence with 2 years probation period.

Delivered and dated at Nairobi this 16th day of June, 1998

J.L.A. OSIEMO

JUDGE