



**IN THE COURT OF APPEAL**

**AT NAKURU**

**CORAM: CHESONI, C.J., GICHERU & BOSIRE, J.J.A.**

**CRIMINAL APPEAL NO. 5 OF 1998**

**BENARD ZAKAYO MUSE .....APPELLANT**

**AND**

**REPUBLIC .....RESPONDENT**

**(Appeal from a conviction & sentence of the High Court of  
Kenya at Eldoret (Nambuye J) dated 23rd September, 1997**

**in**

**H.C.CR.C. NO. 28 OF 1995)**

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**JUDGMENT OF THE COURT**

The Respondent (Republic) does not support the appellant's conviction of accessory after the fact contrary to Section 396 (1) as read with Section 397 of the Penal Code, which conviction was passed by Nambuye J. In the result, we allow the appeal, quash the conviction, set aside the sentence and set the appellant free forthwith unless otherwise lawfully held. The reasons to be given on 6th March, 1998 at 9.00 a.m. at Nairobi.

**Dated and delivered at Nakuru this 26th day of February, 1998.**

**Z. R. CHESONI**

**CHIEF JUSTICE**

**J. E. GICHERU**

**JUDGE OF APPEAL**

**S. E. O. BOSIRE**

**JUDGE OF APPEAL**

**I certify that this is a true copy of the original.**

**DEPUTY REGISTRAR**