

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT MOMBASA
(CORAM: KWACH, TUNOI & OWUOR, J.J.A.)
CRIMINAL APPEAL NO. 19 OF 1998
BETWEEN

ABDALLAH BABU CHIBINDO APPELLANT
AND
REPUBLIC RESPONDENT

**(Appeal from a conviction and sentence of the High
Court of Kenya at Mombasa (Mr. Justice Oguk) dated
13th October, 1995**

**in
H.C.CR.A. NO. 154 OF 1992)**

JUDGMENT OF THE COURT

The appellant, Abdallah Babu Chibindo, was after trial convicted of robbery contrary to section 296 (1) of the Penal Code and sentenced to four (4) years imprisonment and two strokes of the cane. His appeal to the High Court of Kenya at Mombasa (Oguk, J.) was dismissed on 13th October, 1995. He has therefore preferred this second appeal. The only issue in this appeal is whether the trial magistrate erred in relying on the unchallenged evidence of the finger print expert in convicting the appellant. There is ample evidence accepted by the trial magistrate and the first appellate court that the appellant's finger prints were found inside the rear glass door of the complainant's motor vehicle. The appellant's only explanation as to why those finger prints were found there was that he was a newspaper vendor who used to sell newspapers to the complainant amongst others and he might have innocently implanted his prints on the complainant's motor vehicle.

In our view, the presence of the finger prints on the appellant's motor vehicle was inconsistent with an innocent explanation in the light of their situation. The possibility that they had been placed there by accident or by an innocent person was too remote to warrant serious consideration.

As there are concurrent findings by the two courts below; and, as there are no issues of law raised, we think this appeal is devoid of merit and should be dismissed. We so order.

Dated and delivered at Mombasa this 14th day of July, 1998.

R. O. KWACH

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JUDGE OF APPEAL

P. K. TUNOI

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JUDGE OF APPEAL

E. OWUOR

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR