

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT MOMBASA
(CORAM: KWACH, TUNOI & OWUOR, JJ.A)
CRIMINAL APPEAL NO. 26 OF 1998
BETWEEN**

**ABDALLAH CHIBINDO NYASI APPELLANT
AND
REPUBLIC RESPONDENT**

**(Appeal from a conviction and Sentence, Judgment,
or as the case may be of the High Court of Kenya at
Mombasa (Mr Justice Oguk) dated 30th November, 1995**

**in
H.C.CR.A NO. 119 OF 1991**

JUDGMENT OF THE COURT

Abdallah Chibindo Nyasi, the appellant, was convicted of robbery and sentenced to serve 10 years imprisonment with 10 strokes of corporal punishment together with the mandatory police supervision period of 5 years upon completion of the sentence. On appeal to the High Court of Kenya at Mombasa the conviction was confirmed but the number of strokes was reduced to five.

In his petition of appeal, the appellant has advanced three grounds of appeal, but when we invited him to address us on them he clearly intimated that he was not now challenging conviction. He urged us to order that the sentence awarded him in Mombasa Chief Magistrate's Court Criminal Case No. 3405 of 1990, the subject of this appeal, be executed concurrently with that imposed in Criminal Case No. 3361 of 1990, which gave rise to this Court's Criminal Appeal No.19 of 1998.

This being a second appeal, we cannot go into the issue of the severity of sentence which is, in fact, legal and properly awarded in view of the extreme violence meted out by the appellant on his victim.

Though the offences of robbery committed by the appellant were connected in kind, they were not of a single complex and were far between in time. There is no basis in law, therefore, to order the terms of imprisonment to be served concurrently. This appeal is dismissed. This is our 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