



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: OMOLO, LAKHA, JJ.A. & BOSIRE, AG.J.A.)**

**CRIMINAL APPEAL NO. 90 OF 1996**

**BETWEEN**

**MICHAEL MUGO KIHARA.....APPELLANT**

**AND**

**REPUBLIC..... RESPONDENT**

*(Appeal from a Conviction and Sentence of the High Court of Kenya at Nairobi (Justice V.V. Patel) dated 14<sup>th</sup> October, 1996*

*IN*

*H.C.CRA NO. 893 OF 1996)*

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**JUDGMENT OF THE COURT**

The appellant was convicted of burglary and theft contrary to Section 304(2) and 279(b) of the Penal Code.

Upon a careful consideration of the evidence we are not satisfied that there was sufficient evidence to sustain the Conviction. Mr. Bwonwongo for the Republic does not support the Conviction and is our opinion rightly so.

Accordingly the appeal is allowed, conviction quashed and sentence set aside. He is to be released forthwith unless otherwise lawfully held.

**Dated and delivered at Nairobi this 21<sup>st</sup> day of April, 1997.**

**R.S.C. OMOLO**

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**JUDGE OF APPEAL**

**A.A. LAKHA**

.....

**JUDGE OF APPEAL**

**S.E.O. BOSIRE**

.....

**AG. JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**