

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL APPEAL NO.947 OF 1993

**(From Original Conviction and Sentence in Criminal Case
No.6377 of 1992 of the Chief Magistrates Court at Nairobi,
C.W. Mwangi.)**

EMMANUEL ADIDI ANGUNE APPELLANT

VERSUS

REPUBLIC RESPONDENT

J U D G M E N T

Emmanuel Adisi Angune has appealed against his conviction and Sentence. The charge was House breaking and stealing contrary to section 304(1) and 279(b) of the Penal Code, where the Appellant was alleged to have broken into the house of Patricia Nduta Gachuki and stolen one bed cover, two pillow cases and three bedsheets all valued Kshs.1,350/=.

The Learned Trial Magistrate Miss C. Mwangi relied on uncorroborated evidence and unreliable evidence of P.W.3 Sofia Mikali a child of 11 years old who had been dishonored by her relatives and was staying with P.W.1 the complainant in this matter. The evidence of P.W.1 and P.W.2 another child 12 years old, did not corroborate the evidence of P.W.3.

The Learned State Counsel Mrs. Oduor does not support the conviction as there was no sufficient evidence proving the case against the Appellant beyond reasonable doubt.

In the circumstances therefore, the appeal is allowed.

The Appellant's conviction quashed and the sentence set aside.

The Appellant be released forthwith unless lawfully detained in some other cause.

Dated this 10th day of November, 1995.

J.M. KHAMONI

JUDGE

Present.

Mr. Jilo for the State.