



IN THE COURT OF APPEAL

AT NAIROBI

CORAM: OMOLO, AKIWUMI & LAKHA, JJ.A.

CRIMINAL APPEAL NO. 118 OF 1995 (R)

BETWEEN

BENSON MBUGUA KAHIRO..... APPELLANT

AND

REPUBLIC..... RESPONDENT

(Appeal from a judgment of the High Court of Kenya at Nairobi (Justice V.V. Patel) dated 10th August, 1995)

IN

H.C.CR.A. NO. 442 OF 1995)

JUDGMENT OF THE COURT

We think the learned judge was perfectly within his rights to summarily reject the appeal under section 352(2) of the Criminal Procedure Code. Several witnesses said they saw the appellant attack the complainant and there was abundant evidence that the complainant's thumb was chopped off. The appellant alleged that he was attacked and that he threw a panga at the complainant and thus chopped off his thumb. That story was very unlikely to be true and the magistrate rejected it as false. The appellant's three grounds of appeal in the High Court, fairly looked at, amounted to no more than that his conviction was against the weight of evidence. As we have said the Judge was entitled to summarily reject the appeal and we can find no reason for interfering. This sentence was lawful and reasonable. This appeal fails and we order that it be and is hereby dismissed.

Dated and delivered at Nairobi this 29th day of April, 1996.

R.S.C. OMOLO

JUDGE OF APPEAL

A.M. AKIWUMI

JUDGE OF APPEAL

A.A. LAKHA

JUDGE OF APPEAL

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

DEPUTY REGISTRAR