



**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL OF KENYA  
AT NYERI**

**Criminal Appeal 31 of 1995**

**JAMES NGURE KINYANJUI .....APPELLANT**

**AND**

**REPUBLIC .....RESPONDENT**

**(Appeal from a judgment of the High Court of Kenya at Nyeri (Lady Justice Angawa) dated 22<sup>nd</sup> February, 1995**

**IN**

**H. C. CR. A. NO. 44 OF 1994)**

**\*\*\*\*\***

**JUDGMENT OF THE COURT**

This is a second appeal. The appellant's first appeal to the High Court was heard and dismissed. It is still alleged before us, as was done in the High Court, that the appellant's plea to the charge was equivocal. We can find no substance in this complaint. The appellant admitted that he was employed as a care-taker at Sagana State Lodge. He admitted that after it was discovered that various items were missing from the lodge, he led the police to his house and there items which were among those missing from the Lodge were recovered. The appellant admitted all that and he did not allege that he had the authority of anyone to keep the items in his house. The other complaint with some substance is that the language in which the appellant spoke to the magistrate is not shown in the record. In ordinary circumstances that may well be fatal, but in the circumstances of this case, the appellant is certainly not an illiterate and ignorant man. He was a care-taker at a state lodge and he would not perform his duties in his mother tongue. He must have spoken to the magistrate in one of the official languages allowed in that court. We find no merit in this appeal and we order that it be and is hereby dismissed.

**Dated and delivered at Nyeri this 13<sup>th</sup> day of May, 1996**

**J. E. GICHERU**

.....

**JUDGE OF APPEAL**

**R. S. C. OMOLO**

.....

**JUDGE OF APPEAL**

**A. A. LAKHA**

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**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**