



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

**Criminal Appeal 27 of 1995**

**JOSEPH MWANGI KAMANDE .....**  
**.....APPELLANT**

**AND**

**REPUBLIC .....RESPONDENT**

**(Appeal from a judgment of the High Court of Kenya at Nakuru (Lady Justice S. C. Ondeyo) dated  
4<sup>th</sup> December, 1995**

**IN**

**HC. CR. A NO. 176 OF 1991)**

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**JUDGMENT OF THE COURT**

The appellant, together with six others, was charged before the Chief Magistrate's Court at Nakuru on four counts with the offence of robbery contrary to section 296(2) of the Penal Code. He was also charged with being in possession of a firearm without holding a firearm Act, certificate contrary to section 4(2)(A) of the Firearms Cap.114 and for being in possession of ammunition without holding a firearm certificate contrary to the same section. He was convicted on all the four robbery counts on the lesser offence under section 296(1) of the Penal Code and sentenced to ten years' imprisonment on each count with four strokes of the cane on each count plus hard labour. On the remaining two counts under the Firearms Act Cap.114, he was sentenced to serve three year's imprisonment on each count. All sentences were ordered to run concurrently with five years' police supervision after sentence.

His appeal against conviction to the superior court (Ondeyo, J.) was dismissed on three robbery counts and, insofar as sentence is concerned, it was also dismissed save that the sentences were ordered to run concurrently, the strokes to accumulate and the order for hard labour was set aside.

He now appeals to this Court by way of second appeal. The concurrent finding of the two courts below was that the appellant was among those raided the A. I. C. Training Centre, Kiambogo, in the Nakuru District of the Rift valley Province on the night of 9<sup>th</sup> and 10<sup>th</sup> days of October, 1988 and robbed the complainants of the properties set out in the charge sheet. On being searched there was overwhelming evidence that a bullet was recovered from the appellant's coat pocket; under the driver's seat of a motor vehicle on which he was sitting a jacket was found which was identified as the one that had been stolen during the robbery. There were also found heads of the stolen sewing machines inside that motor vehicle. A bag was recovered nearby inside which a gun identified to have been used in the robbery was

also found. Several other items of stolen goods were recovered and identified.

We have carefully evaluated the evidence before the court and are satisfied that the doctrine of recent possession applies and that the conviction was fully warranted in all the circumstances of the case. The appeal against conviction fails and is hereby dismissed. We have no jurisdiction to entertain the appeal against sentence.

Dated and delivered at Nakuru this 27<sup>th</sup> day of September, 1996.

J. E. GICHERU

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JUDGE OF APPEAL

P. K. TUNOI

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JUDGE OF APPEAL

A. A. LAKHA

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JUDGE OF APPEAL