



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAKURU

(Coram: Gachuhi, Tunoi & Shah, J.J.A.)

CRIMINAL APPEAL NO. 80 OF 1994

BETWEEN

SIMON KAMAU KIIGE.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a judgment of the High Court of Nakuru

(Mr. Justice D.M. Rimita) dated 7th February, 1994

in

H.C.CR.C. NO. 129 OF 1993)

JUDGMENT OF THE COURT

The appellant was in a group of six persons who were charged before the Resident Magistrate's Court at Kericho on count 1 with the offence of robbery with violence contrary to section 296(1) of the Penal Code and on count 2, with the offence of assault causing actual bodily harm. All the six persons were found guilty on both counts and convicted. Five of them were sentenced to various terms of prison sentences and corporal punishment. The sixth accused was placed on probation for 3 years. The three who had previous convictions, some of which were relevant to the charge in count 1 were sentenced to 8 years imprisonment with corporal punishment of 5 strokes on count 1 and 2 years imprisonment on count 2. The prison sentences to run concurrently. Of the three, we are told, that one died in prison. The other appealed to the High Court in Criminal Appeal No. 253 of 1989 which appeal was dismissed. His appeal to this Court in Criminal Appeal No. 10 of 1992 was dismissed on 28th February, 1992.

The appellant filed his appeal to the High Court as late as 1993 being Criminal Appeal No. 129 of 1993. His appeal on both conviction and sentence was dismissed on 14th January, 1994. He has now appealed to this Court on both conviction and sentence. On the ground of appeal, he challenged the evidence of PW2 whom he alleges was his wife and that her evidence should not have been given weight. This ground was dealt with extensively by this court in the Criminal Appeal No. 10 of 1992 Peter

Ombuko Muchache V R and rejected. The appellant has raised the same ground and other similar grounds which the court rejected and dismissed in that other appeal.

The present appeal has not raised any point of law for consideration by this Court and his appeal must receive the same fate as in Criminal Appeal No. 10 of 1992. We find that there is no merit in this appeal and we dismiss it. We so order.

Dated and delivered at Nakuru this 21st day of February, 1995.

J.M. GACHUHI

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JUDGE OF APPEAL

P.K. TUNOI.

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JUDGE OF APPEAL

A.B. SHAH

.....

JUDGE OF APPEAL

I certify that this is a true

copy of the original.

DEPUTY REGISTRAR