



REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT NAKURU
Criminal Appeal 17 of 1994

PETER MWANGI KANIGA.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a conviction and sentence of the High Court of Kenya at Nakuru (Mr. Justice B.K. Tanui) dated 6th November 1992

IN

H.C.CR.A. NO. 213 OF 1991)

JUDGMENT OF THE COURT

The appellant was convicted of robbery contrary to section 296(1) of the Penal Code and sentenced to 5 years imprisonment plus 5 strokes of the cane followed by 5 years police supervision. His appeal to the Superior Court against both conviction and sentence was dismissed by Tanui J on 6th November, 1992 and he now brings this second appeal.

The appellant has raised a number of complaints including an allegation of being framed by the police, but this being a second appeal, he can only raise issues of law. The only issue of law available to the appellant is one of identification. As to this, the circumstances of identification were favourable and free from possibility of error. There was light and the appellant had no front upper teeth which was easily noticed by Paul Kariuki Mwangi (P.W.2), whom the appellant attached as he was counting money on a table.

The appellant was properly identified and there can be no doubt that the conviction was proper. In the circumstances the appeal fails and is dismissed.

Dated and delivered at Nakuru this 27th day of September, 1994.

R.O. KWACH

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JUDGE OF APPEAL

M.G. MULI

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JUDGE OF APPEAL

P.K. TUNOI

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR