

Ogila v Republic

REPUBLIC OF KENYA

Court of Appeal, at Kisumu June 12, 1990

Nyarangi, Masime & Gicheru

Criminal Appeal No 26 of 1990

On June 12, 1990, Nyarangi, Masime & Gicheru delivered the following Judgment.

This is a second appeal by the appellant who was convicted of robbery contrary to section 296 (1) of the Penal Code. The other convicted person has not appealed.

The appellant's memorandum of appeal raises only one issue of law namely that of identification.

The complainant's evidence of identification and that of PW 2 is clearly positive. There was ample light within the house and the two witnesses previously knew the appellant whom they recognized with the aid of the hurricane lamp which was then already lit. Besides, the appellant and his gang did no more than threaten the victims. For these reasons, we are satisfied that the appellant was positively identified in connection with the charge and was properly convicted. The sentence is a valid one. There is therefore no merit in this appeal and accordingly we order that it be and is hereby dismissed.