



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MACHAKOS**

**CRIMINAL APPEAL NO 273 OF 1986**

**KIMUNU.....APPELLANT**

**V**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

Upon consideration of all the evidence before the trial court I agree with the learned principal state counsel that the conviction for obtaining by false pretences against the appellant cannot be sustained as there was no proper evidence that the contents of the bottle was mercury or otherwise. It is probable that appellant was an innocent agent as appears from his conduct throughout the transaction.

In the event, I quash the conviction and sentence passed thereon.

The appellant be released forthwith unless otherwise lawfully held.

**February 27, 1987**

**ABDULLAH**

**JUDGE**