

IN THE COURT OF APPEAL

AT KISUMU

(Coram:nyarangi, JA, Gicheru & Kwach, Ag JJA)

CRIMINAL APPEAL NO 167 OF 1988

NYAKENYA.....APPELLANT

VERSUS

REPUBLIC.....DEFENDANT

JUDGMENT

April 10, 1989, Nyarangi, JA, Gicheru & Kwach, Ag JJA, delivered the following judgment.

In this second appeal, there is no basis for doubting the lower court's concurrent findings that the appellant was not entitled to the payment. The appellant's defence was fairly and adequately considered. The urging that the appellant's explanation ought to have been believed is not sustainable.

In the instant case, the cheque was payable, not to the appellant but to Kisii Farmers co-operative Union. We say there was sound evidence in support of the convictions. The appeal fails and is dismissed. That is the order of the court.

Delivered at Kisumu this 10th day of April, 1989,

NYARANGI

.....

JUDGE OF APPEAL

GICHERU & KWACH

.....

AG.JUDGE OF APPEAL

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

DEPUTY REGISTRAR