

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS
CRIMINAL APPEAL NO 161 OF 1987

NGUNGUE.....PLAINTIFF

V

REPUBLIC.....DEFENDANT

JUDGMENT

November 2, 1987 Torgbor J delivered the following Judgment.

This is an appeal from the decision of the resident magistrate court Kitui. The appellant had been charged and convicted of forging a letter of transfer and sentenced to 18 months imprisonment.

The grounds of appeal are mainly that the evidence upon which he was convicted was insufficient and that his confession was retracted and uncorroborated. Mr Nyaga for the state did not support the conviction and on by own assessment of the evidence I am in agreement with both counsels that the conviction was unsafe. It seems that PW 1 was transferred teacher was an accomplice, if so his evidence required corroboration which was not provided by the uncorroborated and retracted confession. That being so this appeal is allowed and the conviction and sentence are quashed and set aside.

Appellant be released until other wise lawfully held. Order accordingly.

November 2, 1987

TORGBOR

JUDGE