



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

**(Coram: Madan, Miller and Potter, J.J.A)**

**CRIMINAL APPEAL NO.94 OF 1981**

BETWEEN

**LOSTA LOTEI NGOROKO.....APPELLANT**

AND

**REPUBLIC.....RESPONDENT**

**(Appeal from the judgment of the High Court of Kenya at Nakuru (Mead, J.) dated 31st January, 1981) in Criminal Appeal No. 392 of 1980)**

**JUDGMENT OF THE COURT**

**MADAN, J.A.**

This appellant was convicted of robbery, contrary to section 296(1) of the Penal Code. His appeal to the High Court was summarily rejected under section 352(2) of the Criminal Procedure Code. He has appealed again, to us.

The appellant was caught red-handed when running away after he struck his victim Mr. Jelli on the head with a rungu, and robbed him of his radio. Before Mr. Jelli became unconscious as a result of the blow on his head, he saw the appellant picking up his radio. Mr. Jelli was also bleeding, and had to be taken to hospital where he remained for several days.

The appellant was chased by two police officers who finally caught him when he fell in a hole. He had dropped the radio in the chase. It was recovered by the police the next day.

The Magistrate was entitled to believe the evidence of the complainant and the two police officers, as he did. We having ourselves perused the record of trial, the Magistrate could not but convict the appellant as charged. The appeal is ordered to be dismissed.

**Dated at Nairobi this 26th day of March, 1982.**

**C.B. MADAN**

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**JUDGE OF APPEAL**

**C.H.E. MILLER**

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**JUDGE OF APPEAL**

**K.D. POTTER**

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**JUDGE OF APPEAL**