



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT NAKURU**  
**CORAM: GICHERU, C.J., O’KUBASU, J.A. & DEVERELL, AG. J.A.**  
**CRIMINAL APPEAL NO. 131 OF 2003**

BETWEEN  
GEOFFREY YOGEN KIBET.....APPELLANT  
AND  
REPUBLIC.....RESPONDENT

(Appeal from a sentence of the High Court of Kenya at  
Nakuru (Mr. Justice Muga Apondi) dated 8th May 2003  
in  
H.C. CR. NO. 427 OF 2001  
\*\*\*\*\*)

**JUDGMENT OF THE COURT**

This is a second appeal from the decision of the first appellate Court dismissing the appellant’s appeal on sentence. The appellant’s appeal before us is on severity of sentence and pleads with us that the same should be reduced even for one day. He was sentenced to 10 years imprisonment with hard labour together with 10 strokes of corporal punishment. Under section 361 (1)(a) of the Criminal Procedure Code severity of sentence is a matter of fact and no second appeal lies to this Court on matter of fact. In the result the appellant’s appeal to this Court is incompetent and the same is struck out.

**Dated and delivered at Nakuru this 22nd day of February, 2005.**

**J.E. GICHERU**  
.....  
**CHIEF JUSTICE E.O. O’KUBASU**  
.....  
**JUDGE OF APPEAL**  
**W.S. DEVERELL**  
.....  
**AG. JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**