



**REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT MOMBASA**

Criminal Appeal 142 of 2002

SILVESTER KELI KAKUMI APPELLANT

AND

REPUBLIC RESPONDENT

**(Appeal from a Judgment of the High Court of Kenya at Mombasa (Tutui, Commissioner of Assize)
dated 14th June, 2002**

in

H.C.CR.A. NO. 297 OF 2000)

JUDGMENT OF THE COURT:

The trial of the appellant was conducted by a Police Corporal. In view of the decision of this Court in **Criminal Appeal No. 67 of 2002 ROY RICHARD ELIREMA & ANOTHER V. REPUBLIC** that trial was a nullity. We quash the conviction and set aside the sentence.

In view of the gravity of the offence charged we order that the appellant be re-arrested, charged and tried before another court of competent jurisdiction with a competent prosecutor.

Dated and delivered at Mombasa this 7th day of August, 2003.

R. O. KWACH

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JUDGE OF APPEAL

E. O. O’KUBASU

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JUDGE OF APPEAL

P. N. WAKI

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR