



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT MOMBASA**  
**(CORAM: OMOLO, BOSIRE & OWUOR, J.J.A.)**  
**CRIMINAL APPEAL NO. 77 OF 2000**

**BETWEEN**

**1. MWALIMU KADZAGAMBA**  
**2. TAAB KADZAGAMBA ..... APPELLANTS**  
**AND**  
**REPUBLIC ..... RESPONDENT**

**(Appeal from a conviction and judgment of the High Court  
of Kenya at Mombasa (Waki, J.) dated 28th June, 1999  
in  
H.C.CR. APPEALS NOS. 15 & 16 OF 1999)**  
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**JUDGMENT OF THE COURT**

Both the appellants pleaded guilty to a charge of manslaughter contrary to section 202 as read with 205 of the Penal Code before the Chief Magistrate's Court at Malindi, and were thereafter each sentenced to an imprisonment term of 10 years. Their respective first appeals to the superior court were summarily rejected under section 352(2) of the Criminal Procedure Code. In these consolidated appeals their complaint is that their respective sentences are harsh and should therefore be reduced.

By dint of the provisions of section 361(1) of the Criminal Procedure code a second appeal to this court must only relate to points of law, and by reason of the same section the question as to severity of sentence is a matter of fact. In the circumstances these appeals do not lie in as far as they relate to severity of sentence only. They are therefore struck out for being incompetent.

**Dated and delivered at Mombasa this 24th day of January, 2001.**

**R. S. C. OMOLO**

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**JUDGE OF APPEAL**

**S. E. O. BOSIRE**

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**JUDGE OF APPEAL**

**E. OWUOR**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**