



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**CRIMINAL APPEAL 52 OF 2003**

**GEORGE OMONDI .....APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**J U D G M E N T**

George Omondi, the appellant, was convicted for Shop Breaking and committing a felony contrary to Section 306(a) Penal Code. His conviction cannot be sustained as the prosecution was conducted by unauthorised public prosecutor, namely, Police Constable Mutisya.

Conviction is quashed and sentence of two years and 4 strokes is set aside.

I order a retrial to be held before another magistrate. For this purpose the appellant is to be released from prison custody forthwith and remanded at Changamwe Police Station. He is to be recharged before the Chief Magistrate Mombasa on 3rd October 2003.

**Dated and delivered at Mombasa this 29th September 2003.**

**A.G.A. ETYANG**

**JUDGE**



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