



**IN THE COURT OF APPEAL**

**AT MOMBASA**

**(CORAM: GICHERU, SHAH & OWUOR, JJ.A.)**

**CRIMINAL APPEAL NO. 22 OF 1998**

**BETWEEN**

**CHARO KARISA PEMBE.....APPELLANT**

**AND**

**REPUBLIC.....RESPONDENT**

**(Appeal from a Judgment of the High Court of Kenya at Mombasa (Justice Ang'awa) dated 3rd December, 1996 in**

**H.C.CR.A. NO. 114 OF 1996)**

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**JUDGMENT OF THE COURT:**

The appellant was sentenced to 18 years imprisonment by the Principal Magistrate's Court at Malindi for the offence of Manslaughter contrary to section 205 of the Penal Code. His appeal to the superior court against that sentence was summarily rejected on 3rd December, 1996 under section 352 (2) of the Criminal Procedure Code. He now appeals to this court against that summary rejection.

One of the grounds of appeal in the superior court was that on the date of sentence in the court of first instance he was 65 years old. On account of that, the sentence of 18 years imprisonment was manifestly excessive and sought the interference of the superior court in that regard. We think that on account of his age as at the date of his sentence on 13th March, 1996, the period of 18 years imprisonment was in all the circumstances of the case manifestly excessive and the superior court should not have summarily rejected the appellant's appeal under section 352 (2) of the Criminal Procedure Code. In the result we allow the appellant's appeal, set aside the order of the superior court summarily rejecting his appeal and admit the same to hearing and under section 3 (2) of the Appellate Jurisdiction Act, Chapter 9 of the Laws of Kenya we reduce the sentence of 18 years imprisonment to one of 4 years which shall run from the date of his original sentence - 13th March, 1996.

**Dated and delivered at Mombasa this 22nd day of July, 1998.**

**J. E. GICHERU**

.....  
**JUDGE OF APPEAL**

**A. B. SHAH**

.....  
**JUDGE OF APPEAL**

**E. OWUOR**

.....  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**



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