



**REPUBLIC OF KENYA**

**IN THE COURT OF APPEAL**  
**AT KISUMU**

**(CORAM: KWACH, TUNOI & BOSIRE JJ.A)**

**CRIMINAL APPEAL NO.53 OF 1999**

**BETWEEN**

**FRANCIS NYACHIEO MARUBE .....APPELLANT**

**AND**

**REPUBLIC .....RESPONDENT**

**(Appeal from a judgment of the High Court of Kenya at  
Kisii (Waweru, J.) dated 28th May, 1999**

**in**

**H.C.CR.C. NO.219 OF 1998)**

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**ORDER OF THE COURT**

The appellant's first appeal to the superior court was against severity of sentence. That appeal was dismissed. His present appeal being an appeal against severity of sentence does not lie in view of the clear provisions of Section 361 of the Criminal Procedure Code. That being the case, this appeal is incompetent and is accordingly struck out.

Made at Kisumu this 11th day of June, 2002.

**R.O. KWACH**

.....

**JUDGE OF APPEAL**

**P.K. TUNOI**

.....

**JUDGE OF APPEAL**

**S.E.O. BOSIRE**

.....

**JUDGE OF APPEAL**

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

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