



Case Number:	Criminal Appeal 24 of 1994
Date Delivered:	27 Sep 1994
Case Class:	Criminal
Court:	Court of Appeal at Nakuru
Case Action:	Judgment
Judge:	Philip Kiptoo Tunoi, Richard Otieno Kwach, Mathew Guy Muli
Citation:	Daniel Mwangi Wachira & Another v Republic [1994] eKLR
Advocates:	-
Case Summary:	Criminal law - rape - two accused persons convicted and sentenced to imprisonment for 4 years plus 2 strokes of corporal punishment (the cane) - first appeal summarily rejected by the High Court - second appeal - whether the evidence was sufficient to support the convictions - whether the sentence was harsh and excessive - whether the appellants' first appeal had been properly dismissed - Criminal Procedure Code section 352(2)
Court Division:	-
History Magistrates:	-
County:	-
Docket Number:	-
History Docket Number:	H.C.CR.A. NO. 416-417 OF 1993
Case Outcome:	Dismissed
History County:	Nakuru
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-

Sum Awarded:

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**REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA PEAL**

**AT NAKURU
Criminal Appeal 24 of 1994**

1. DANIEL MWANGI WACHIRA

2. DAVID MAINA SOLOMON.....APPELLANTS

AND

REPUBLIC.....RESPONDENT

(Appeal from summary rejection of the High Court of Kenya at Nakuru (Mr. D.M.

Rimita) dated 8th December, 1993

IN

H.C.CR.A. NO. 416-417 OF 1993)

JUDGMENT OF THE COURT

David Maina Solomon (the second appellant) was convicted of rape and sentenced to 4 years imprisonment plus 2 strokes of the cane. Daniel Mwangi Wachira (the first appellant) was convicted of indecent assault of a female and given the same sentence. Their appeals to the Superior Court against both conviction and sentence were summarily rejected under section 352(2) of the Criminal Procedure Code. They now appeal to this court against that rejection.

Offence of rape carries life imprisonment with hard labour with or without corporal punishment. Indecent assault carries a maximum sentence of 5 years plus corporal punishment. The sentence imposed by the trial Magistrate on both appellants were quite lenient and cannot be said to be either harsh or excessive.

We are satisfied that the evidence against both appellants is sufficient to support the convictions and there is no material in the circumstances of this case which can raise a reasonable doubt whether the conviction was right or lead us to the opinion that the sentences ought to be reduced. The summary rejection was therefore correct and we uphold it. And we agree with Mr. Etyang's submission that there is no merit in these appeals, and they are accordingly dismissed.

Dated and delivered at Nakuru this 27th day of September, 1994.

R.O. KWACH

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JUDGE OF APPEAL

M.G. MULI

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JUDGE OF APPEAL

P.K. TUNOI

.....

JUDGE OF APPEAL

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

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