



Case Number:	crim app 114 of 01
Date Delivered:	30 Oct 2001
Case Class:	Criminal
Court:	Court of Appeal at Nyeri
Case Action:	-
Judge:	Philip Kiptoo Tunoi, Abdulrasul Ahmed Lakha, Moijo Matayia Ole Keiwua
Citation:	JAMES KAROKI NDUNGU vs REPUBLIC[2001] eKLR
Advocates:	-
Case Summary:	-
Court Division:	-
History Magistrates:	-
County:	-
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

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**REPUBLIC OF KENYA**

**IN THE COURT OF APPEAL**

**AT NYERI**

**(CORAM: TUNOI, LAKHA & KEIWUA, JJ.A.)**

**CRIMINAL APPEAL NO. 114 OF 2001**

**BETWEEN**

**JAMES KAROKI NDUNGU .....**

**APPELLANT**

**AND**

**REPUBLIC .....**

**RESPONDENT**

**(Appeal from an Order of the High Court of Kenya at Nyeri (Mr.**

**Justice Juma) dated 24th September, 1999**

**in**

**H.C.CR.A. NO. 462 OF 1998)**

**\*\*\*\*\***

**JUDGMENT OF THE COURT**

The appellant appeals against the summary rejection of

his appeal by the superior court (Juma, J.) on 24 September, 1999 under section 352(2) of the Criminal Procedure Code thereby confirming sentence of 6 years' imprisonment plus 6 strokes of the cane on a charge of robbery contrary to section 296(1) of the Penal Code.

Mr. Oluoch who appeared for the Republic conceded and, in our view rightly, that the summary dismissal of the appeal by the superior court was, with respect, wrong. He confirmed that at least two of the grounds, that is, numbered 4 and 5, raised points of law which merited consideration.

As Mr. Oluoch did not support the conviction and rightly so, we do not consider it necessary to go into any further details. We allow the appeal, quash the conviction and set aside the sentence. The appellant is ordered to be set free forthwith unless otherwise lawfully held.

Dated and delivered at Nyeri this 30th day of October, 2001.

P.K. TUNOI

.....

JUDGE OF APPEAL

A.A. LAKHA

.....

JUDGE OF APPEAL

M. KEIWUA

.....

JUDGE OF APPEAL

**I certify that this is**

**a true copy of the original.**

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