



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION
APPELLATE SIDE
CRIMINAL APPEAL NO.105 OF 1999

PETER KIPKURUI NGENO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(From Original Conviction and Sentence in Criminal Case No.1691 of 1998 of the Principal Magistrate's Court at Kericho).

5/11/2001

Both appellants present

Monda, State Counsel

1ST APPELLANT

I admit robbing the complainant as charged. Pray substitute the conviction for simple robbery.

2ND APPELLANT

I also admit robbery the complainant. Pray for the substitution. First offence.

MONDA

I do not object. Very minor injury.

V.V. PATEL

JUDGE

5/11/2001

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(From Original Conviction and Sentence in Criminal Case No.1691 of 1998 of the Principal Magistrate's Court at Kericho).

PETER KIPKURUI NGENO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

CONSOLIDATED WITH

CRIMINAL APPEAL NO.106 OF 1999

(From Original Conviction and Sentence in Criminal Case No.1691 of 1998 of the Principal Magistrate's Court at Kericho).

DONALD KIPRONO KERING.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellants in Criminal Appeal Nos. 105 and 106 of 1999 (which are consolidated now admit robbing the complainant as charged but have asked us for the substitution of the convictions for Robbery, contrary to section 296(1), P.C.

The evidence was that both appellants robbed the complainant of cash Sh.17,800/- on 1/8/98.

It is clear from the medical evidence that the appellants injured the complainant during the cause of the robbery. However, the injustices being bruises were classified as mere harm.

We consider this a suitable case for the substitution. The learned State Counsel Mr. Monda also agrees.

Both appellants has no previous convictions. They were in remand for about 6 months. There is no remission for robbery sentence.

ORDER

We substitute the conviction against both appellants for Robbery, contrary to section 296(1), P.C and set aside the death sentence. We sentence each of the two appellants to 3½ years imprisonment with effect from 15th January 1999 plus two strokes each.

Dated and delivered at Nairobi this 5th day of November, 2001.

G.P. MBITO

JUDGE

V.V. PATEL

JUDGE