**Mwangi and others v Republic**

**Division:** Court of Appeal at Nairobi

**Date of judgment:** 13 November 1974

**Case Number:** 79/1973 (120/74)

**Before:** Spry Ag P, Law Ag V-P and Musoka JA

**Sourced by:** LawAfrica

**Appeal from:** High Court of Kenya – Simpson and Muli, JJ

*[1] Criminal Practice and Procedure – Minor offence – Unlawful conversion of vehicle – A complete*

*minor offence in relation to robbery – Criminal procedure Code s.* 179 (*K.*)*.*

*[2] Evidence – Witness – Hostile – Evidence admissible but of little value – Might cast doubt on guilt.*

**Editor’s Summary**

In the course of the appellant’s appeal it was contended that the offence of unlawful conversion of a vehicle was not a lesser cognate offence to robbery, and that evidence of a hostile witness should be treated differently when it supported the defence. The respondent contended that the evidence of a hostile witness should be treated differently when it supported the defence. The respondent contended that the evidence of a hostile witness is negligible whoever it supports.

**Held** –

(i) unlawful conversion of a vehicle is a lesser cognate offence to robbery;

( ii) the evidence of a hostile witness is admissible although generally of little value;

(iii) a conviction could not be founded on such evidence;

(iv) nevertheless it is possible that some part of such evidence might be truthful and, if this cast doubt

on guilt, the court could acquit.

Appeal dismissed.

**Cases referred to Judgment:**

(1) *Leonard Harris* (1927), 20 Cr. App. R. 144.

(2) *R. v. Golder*, [1960] 1 W.L.R. 1169.

(3) *Alowo v. Republic*, [1972] E.A. 324.