



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERICHO

CRIMINAL APPEAL NO.E002 OF 2020

EDWIN KIMUTAI SANG.....APPELLANT

V E R S U S

REPUBLIC.....RESPONDENT

(Being an Appeal from the original conviction and sentence by Hon. S. M. MOKUA (CM) in Kericho CMCR. No.201 of 2018 delivered on 25/10/2018)

JUDGMENT

1. The Appellant was sentenced to Ten (10) years imprisonment for the offence of attempted murder Contrary to Section 220 (a) of the Penal Code.
2. The particulars of the offence were that on 19/1/2018 at Kabasweti Village in Kebeneti Sub-Location in Sigowet Soin Sub-County within Kericho County, the Appellant attempted to cause the death of Floridah Chepngetich by stabbing her with a knife on the neck.
3. The Prosecution evidence in summary was that on the material day in the evening the Complainant had gone to the river within Kabasweti Village and on her way back home, she met the Appellant at her gate and they talked for a while and the Appellant asked the Complainant to escort him but she was hesitant.
4. The Appellant removed a knife and stabbed the Complainant on the neck. The Complainant and her daughter who was by the door of her house screamed and villager came to the scene and the Appellant.
5. The Complainant knew the Appellant as they had been friends for four months. The Complainant was rushed to A.I.C. Litein Hospital where she was operated on and upon discharged, she continued with treatment at Tenwek Mission Hospital and Sigowet Sub-County Hospital.
6. The Appellant was pursued by the Area Assistant Chief and he was arrested and charged with this offence.
7. The Appellant in his defence said the charge was due to mere allegations and that the complainant was out to fix him.
8. The Trial Court found the Appellant guilty as charged and convicted him with attempted murder Contrary to Section 220 (a) of the Penal Code and sentenced him to Ten (10) years imprisonment.
9. The Appellant has appealed to this court against both the conviction and sentence on the following mitigation grounds:-
 - (i) ***THAT the Appellant is the sole bread winner of his family.***
 - (ii) ***THAT his family is at risk of breaking and his children lack fatherly care and guidance.***
 - (iii) ***THAT the Appellant provides for his elderly parents with basic needs.***
 - (iv) ***THAT he is seeking a non-custodial sentence or a review of the initial sentence.***
10. The Respondent opposed the appeal and submitted orally that the Appellant gave his mitigation before he was sentenced to Ten (10) years imprisonment.

11. I have considered the mitigation by the Appellant and I find the same were raised before the Trial Court.

12. The offence the Appellant committed was a very serious one as he armed himself with a knife and went to the Complainant's house with intention of committing murder.

13. The Appellant stabbed the Complainant on the neck and it is apparent that his aim was to inflict fatal injuries on her.

14. I find that the sentence of Ten (10) years imprisonment was lenient considering the nature of the offence.

15. I find that the appeal herein lacks in merit and I accordingly dismiss it and I uphold both the conviction and sentence.

Delivered, signed and dated at Kericho this 22nd day of January, 2021.

A. N. ONGERI

JUDGE