

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION E018 OF 2021

DAVID AURA BUDUBE.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for Revision of sentence in Siaya SPMCRC E245 of 2021 on 18.03.2021 by Hon. Lester Simiyu, Principal Magistrate)

RULING ON REVISION

1. The Convict **David Aura Budube** was charged with the offence of **Assault Causing Actual Bodily Harm Contrary to Section 251 of the Penal Code**. He was accused of assaulting **Viona Anyango Omondi** occasioning her actual bodily harm, on 5.3.2021 at Bar Olengo in Siaya County. He is aged 32 years old. He lives with his mother and is the only surviving child of his parents as all his siblings died. He dropped out of school in class six and engages in casual labour. He assaulted his employer after disagreeing with her over his dues upon him working for her.
2. Before he was sentenced, a Presentence Report dated 18.1.2021 by Mr. David Odumba showed that he was not candid and gave home directions that that led to nowhere. Even the phone contacts that he gave as belonging to his mother was not going through. He was sentenced to a fine of KShs.20,000/= in default to serve 6 months imprisonment as 18.3.2021 by Hon. Lester Simiyu, Principal Magistrate, Siaya.
3. I have perused the proceedings and I find no irregularity in the plea of guilty which was unequivocal. The sentence imposed was lawful and lenient. However, the Probation Officer Mr. Ochieng Ogolla Managed to trace the convict's mother and neighbours and other relatives. He states that he interviewed the convict who is remorseful and willing to serve unpaid Community Service and apologize to the victim. He recommends for Community Service Order (CSO) at Kadenge Dispensary. As stated earlier, the proceedings were regularly conducted by the trial magistrate and the sentence imposed was lenient and lawful.
4. The convict has served two months of the six months imprisonment imposed as he has not raised the fine imposed. I invoke **Section 3 of the Section of Act** and Order that the convict David Dura Budube shall serve three months unpaid and strictly supervised community serve at Ratuoro Dispensary with effect from the date of release.
5. File closed.
6. Orders accordingly.

Dated, Signed and Delivered at Siaya this 24th day of June, 2021

R.E. ABURILI

JUDGE