

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO 92 OF 2018

LUCY WAIRIMU MUTURI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence dated 19/09/2018 in Nanyuki CM Criminal Case No.1269 of 2018 – N. Thuku – PM)

J U D G M E N T

1. The Appellant in this appeal, **LUCY WAIRIMU MUTURI**, pleaded guilty to the offence of ***assault causing actual bodily harm*** contrary to **section 251** of the ***Penal Code***. The particulars of the offence were that on an unknown day or month in the year 2018 at Baraka area within Laikipia–East Sub-county in Laikipia County, he unlawfully assaulted one **PK**, a minor aged 4 years, and thereby occasioned him actual bodily harm.

2. On 19/09/2018 the Appellant was sentenced to 2½ years imprisonment. She has appealed only against that sentence.

3. I have considered the Appellant’s submissions as well as those of the learned counsel for the Respondent. I have also perused the trial court record.

4. The facts placed before the trial court, and which the Appellant admitted, were that the minor complainant was the Appellant’s own child. It appeared that the Appellant had repeatedly tortured the child by biting him all over the body, leaving him with bleeding wounds. She had also otherwise assaulted the child to the extent of breaking one of his arms, which apparently necessitated taking the child to hospital.

5. A social worker at ***Nanyuki Teaching and Referral Hospital*** was informed of the child’s peculiar injuries. After seeing the child, the social worker confronted the Appellant who said that she assaulted the child after his (child’s) father left her. The social worker then reported the matter to ***Nanyuki Police Station***, leading to the Appellant’s arrest.

6. It is difficult to understand how a mother who has carried a child in her own womb could be so beastly to the child who has done no wrong. How could the Appellant blame the child for being left by the child’s father?

7. The sentence meted out to the Appellant for the beastly assault upon her own child was well-deserved. It was not manifestly harsh or excessive, and this court has no reason to interfere. This appeal against sentence has no merit and is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 26TH DAY OF FEBRUARY 2020

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 27TH DAY OF FEBRUARY 2020