

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NANYUKI

CRIMINAL APPEAL NO.22 OF 2018

SAMUEL NYAMONGO NYANG'AU....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence dated 21/02/2018 in Nanyuki CM Criminal Case No.1947 of 2017 – D. Bosibori, RM)

J U D G M E N T

1. The Appellant herein, **SAMUEL NYAMONGO NYANG'AU**, was convicted after trial of *grievous harm* contrary to **section 234** of the *Penal Code*. The particulars of the offence were that on 10/12/2017 at *Shika Adabu* area within Laikipia East Sub-County of Laikipia County, he unlawfully did grievous harm to one **ABDI MASRI WAES**. On 21/02/2018 he was sentenced to serve five (5) years imprisonment. The Appellant has appealed only against the sentence. The Republic supports the sentence.

2. I have considered the submissions of the Appellant and those of the learned counsel for the Respondent. Grievous harm is a serious offence that carries a maximum sentence of life imprisonment. Under section 4 of the Penal Code the term "*grievous harm*" means -

“...any harm which amounts to a maim or dangerous harm, or seriously or permanently injures health, or which is likely to so injure health, or which extends to permanent disfigurement, or to any permanent or serious injury to any external or internal organ, membrane or sense.”

3. In this present case the Appellant attacked the complainant and administered on him a deep cut on his right wrist with a slasher which cut through tendons. He was admitted in hospital for 4 days. The injury was medically classified as "*maim*".

4. In sentencing the Appellant the trial court considered the gravity of the offence and the aggravating circumstances. The court was satisfied that the Appellant had intended to kill the complainant.

5. I am not satisfied that there is any justifiable cause to interfere with the sentence; it was not manifestly harsh or excessive, given the circumstances of the offence.

6. This appeal against sentence has no merit. It is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 11TH DAY OF MARCH 2020

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 12TH DAY OF MARCH 2020