



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KABARNET**

**HCCRA NO. 189 OF 2017**

**LOKIBET KAKANDICH .....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

1. The appellant was convicted for assault causing actual bodily harm contrary to section 251 of the Penal Code and sentenced to serve imprisonment for (2) years. The court ordered that the said sentence be served consecutively to a previous sentence for (3) years in Criminal Case No. 776 of 2014, also for the charge of assault.
2. The appellant did not challenge the conviction and at the time of hearing of the appeal on how relevance is the case, he had already finished (3) years sentence in Cr. 776 of 2014 and done one (1) year imprisonment in the present case.
3. The DPP while not opposing the appeal requested that the Probation Officer be requested to file a pre-sentence report to confirm whether the appellant may be released on a non custodial sentence for the remainder of the term of the (2) years sentence.
4. By a Probation Officer's Report on sentencing dated 9/1/2018 by Ms Ngochoi, M. J. the appellant was recommended for community service sentence at Loruk Dispensary.
5. The appellant had already expressed willingness to be considered for non-custodial sentence for the remainder of the term and confirmed that he hailed from East Pokot. In addition, the Pre-sentence Report recommending community service indicates that the appellant had while in prison undergone positive behavior change and his immediate community had no reservations about his rehabilitation within the community.

**Order**

6. Having considered the matter, I find that the circumstances of the case are suitable for an order for Community Service Order under section 3 of the Community Service Order Act. Accordingly, I sentence the appellant to serve community service at Loruk Dispensary for a period of 12 months from today.

**DATED AND DELIVERED THIS 16<sup>TH</sup> DAY OF JANUARY, 2018**

**EDWARD M. MURIITHI**

**JUDGE**

**Appearances: -**

Appellant in person

Ms Macharia Assistant DPP