

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

MISC. CRIMINAL APPL. NO.3 OF 2016

JOHN KIPRUTO TUM.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(From the original conviction and sentence in original Cr. Case No. 3378 of 2014 dated 1st July 2015 (Hon. J Ndururi (PM))

RULING

1. The applicant was charged with the offence of attempted murder contrary to section 220 (a) of the Penal Code. The particulars of the offence are that on the 6th day of December 2014 at Mentera Village of Kipkelion district within Kericho County, attempted unlawfully to cause the death of Reuben Kipkorir by stabbing him with a knife. He was tried before the Chief Magistrate's Court and was convicted as charged. He was sentenced to 4 years' imprisonment.
2. The applicant filed the present appeal against his conviction and sentence. The appeal appears to have been erroneously registered as a miscellaneous criminal application.
3. However, when the appeal came up before me on 14th June 2018, he informed the court that he wished to abandon his appeal, and to ask the court to consider his application for review of his sentence.
4. Section 220 of the Penal Code provides that any person who unlawfully attempts to cause the death of another is liable, upon conviction, to imprisonment for life. In this case, the accused was found to have been guilty of the lesser offence of causing grievous harm contrary to section 234 of the Penal Code. The offence of causing grievous harm carries a maximum sentence of life imprisonment. The social inquiry report on the applicant indicates that he had a prior conviction in which he was sentenced to community service, and is problematic in the community.
5. Taking the facts of this case into consideration and the provisions of law with respect to the sentence for causing grievous harm, I am not satisfied that the sentence of the trial court should be reviewed. In my view, it was actually too lenient. The application for review is accordingly dismissed.

Dated Delivered and Signed at Kericho this 29th day of June 2018.

MUMBI NGUGI

JUDGE