

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO 78 OF 2017

LETAPARDAI LEMURUA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentences dated 21/07/2017 in Nanyuki CM Criminal Case No 654 of 2016 – E Ngigi, SRM)

J U D G M E N T

1. The Appellant **LETAPARDAI LEMURUA** was convicted after trial in count I of *grievous harm* contrary to **section 234** of the *Penal Code*, and in count II of *assault causing actual bodily harm* contrary to **section 251** of the *Penal Code*. It was alleged in the particulars of the offences that on 7th April, 2015 at about 16.00 hours at Tango Maos Ranch in Laikipia North Sub-County within Laikipia County, jointly with others not before court, he unlawfully and respectively did grievous harm to one **AIDAN HARTELY** and assaulted one **JACKSON AMBURA**, thereby occasioning him actual bodily harm. On 21st July 2017 he was sentenced to serve seven (7) years imprisonment in count I and to two (2) years imprisonment in count II, the sentences to run concurrently. He has appealed against the sentences only.

2. The complainants were attacked by a large group of Samburu morans who were illegally grazing in the first complainant's land. The morans were armed with clubs, spears and swords, though the injuries inflicted upon the complainants were caused by rocks hurled at them. The first complainant suffered a maim in his hand. The confrontation could easily have resulted in death(s) had the complainants not retreated; the police officers who came onto the scene also acted with commendable restraint.

3. The sentences imposed upon the Appellant were lawful. It is to be noted that grievous harm carries a maximum life imprisonment under the law. The Appellant got only seven (7) years. It was a lenient sentence and certainly richly deserved in the circumstances.

4. There is no valid reason for this court to interfere with the sentences. There is no merit in the appeal against sentence. It is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 2ND DAY OF AUGUST 2018

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI 15TH DAY OF AUGUST 2018