

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL APPEAL NO. 6 OF 2018

DICKSON ONANI OGITO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from the original conviction and sentence of Hon. G.K Kimutai – SRM dated 26th February 2015 at the Chief Magistrate’s Court at Kisii in Criminal Case No. 613 of 2015)

JUDGMENT

1. The appellant, DICKSON ONANI OGITO, was charged, convicted and sentenced to 13 years for the offence of attempted murder contrary to section 220(a) of the Penal Code. The particulars were that on 23rd February 2015 at Nyosia Village in Kisii Central District within Kisii County he attempted unlawfully to cause the death of FO, by cutting both hands and legs with intent to kill her.
2. The appellant appealed against both conviction and sentence although he was convicted on his own plea of guilty. At the hearing of this appeal, he abandoned this appeal on conviction and urged the court to review the sentence. He told the court that he was remorseful and had learnt his lesson.
3. The appellant’s family members including his wife, brother in law, uncles and church members attended court and urged the court to release the appellant.
4. I called for a post sentence review report. The report dated 3rd August 2018 showed that the appellant was remorseful and the community was ready to accept him back so that he can take care of his family.
5. Although, I would not ordinarily interfere with a properly imposed sentence, I am satisfied that the appellant is remorseful and in view of pleas by the family members and community, I am prepared to give the appellant a chance to make up for his sins. I take into account that he has spent three years in prison.
6. Accordingly, I set aside the sentence of imprisonment and substitute it with two years probation from the date of this judgment. The appellant is set free unless otherwise lawfully held.

Dated and delivered at Kisii this 3rd day of August 2018.

D.S MAJANJA

JUDGE

Mr. Otieno, Senior Prosecution Counsel, instructed by Office of Director of Prosecutions.

Appellant in person.