

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MURANG'A
CRIMINAL APPEAL NO.56 OF 2015

JOHN MUTURI GATHII.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

*(From the original conviction and sentence in Criminal Case No.352 of 2014 of the Principal
Magistrate's Court at Kandara by Hon. C. Kithinji – Ag. Senior Resident Magistrate)*

JUDGMENT

The appellant, **JOHN MUTURI GATHII**, was convicted of the offence of grievous harm contrary to section 234 of the Penal Code.

The particulars of the offence were that on 14th August 2014 at Rukira village, Kandara District of Murang'a County, jointly with others did grievous harm to Michael Mburu Gathii.

He was sentenced to 25 years imprisonment. He now appeals against both conviction and sentence.

The appellant was represented by Mr. John Gacheru, learned counsel. He raised six grounds of appeal but at the time of hearing of this appeal, he applied to abandon all the grounds on conviction and addressed the one on sentence only.

The state conceded to the appeal on sentence through Mr. Njeru, the learned counsel.

I have perused the evidence on record and I find that in the circumstances of this case the sentence was excessive. His co accused were sentenced to three years probation yet they were the ones who inflicted the more serious injuries on the complainant.

I set aside the sentence of the learned trial magistrate and substitute it with a sentence of three years imprisonment from the date he was sentenced by the trial court. His appeal on sentence succeed to that extent.

DATED at MURANG'A this 19th day of July 2016

KIARIE WAWERU KIARIE

JUDGE