

Mary's neighbours attempted to apprehend him. He went away and returned later for a third time. It was then that the firearm was snatched from him by **Silvester Ekai Kokiro (PW2)**. Nonetheless, he escaped from the scene but was later arrested.

Prior to proceeding to Mary's home, the appellant had been at the home of **Amaret Logirio (PW3)**, where he asked for alcohol which was unavailable. He left the scene briefly and returned. He alleged that his money was lost and was all along armed with a firearm. Amaret ran away from the scene even as the appellant left for Mary's place.

On the same material date in the morning hours at about 9.00 a.m., **Richard Ejore (PW4)**, was at his home when he saw the appellant being chased by a crowd of people. He joined the race along with his dogs and the appellant was apprehended after running for about ten (10) kilometres. He was thereafter handed over to the area chief who in turn handed him over to the police at Lodwar police station.

The O.C.S. Lodwar Police station, **CIP Evans Omuga (PW6)**, investigated the matter and in the process forwarded the material firearm to the ballistic expert for necessary examination.

The ballistic expert, **CIP Emmanuel Lagat (PW5)**, examined the firearm and found that it was in fair working condition. He prepared his report which he produced in court (P. Exh. 5)

On completion of the investigations, the appellant was charged with the present offences.

In denying the charges, the appellant defended himself by saying that he was a businessman dealing in livestock and that on the 18th March, 2012, he purchased goats at Lodwar and sold them at Naipa for a total sum of Ksh. 2,000/=.

He intended to return to Lodwar on 20th March, 2012, but due to lack of transport he decided to walk on foot and as he was doing so on the 21st March, 2012, he met a man who ordered him to stop. This was at about 9.57 a.m. The man asked him questions and in the process a crowd gathered at the scene. The crowd beat him up alleging that he was a thief. His money was taken away. He was beaten up and left at the scene. Later, he reported the matter at Lodwar Police Station but when the people who had beaten him up appeared at the police station, he was arrested and later arraigned in court with the present offences. He contended that he was innocent and that the allegations against him were false.

From the evidence foregoing, it is apparent to this court that the appellant and Mary (PW1) were not strangers and when she said that he visited her home on the material date asking for alcohol she may as well have stated the truth as there was no suggestion forthcoming from the evidence that she may have had a good reason to implicate him.

Apart from the fact that the appellant went to Mary's homestead on the material date and time, it was also a true fact that he was at the time armed with a firearm which he used to threaten Mary.

Silvester (PW2), snatched the gun from him while he was at Mary's place. He (PW2) also indicated that the appellant also threatened others with the gun.

Amaret (PW3), confirmed that the appellant left his homestead and proceeded to Mary's homestead armed with the gun and Richard (PW4), confirmed that he joined the crowd which chased and apprehended the appellant.

The testimonies of all the aforementioned viewed against the defence raised by the appellant clearly showed that the appellant did not speak the truth and that his defence was an after thought as there was ample credible evidence which proved that he was in unlawful possession of a firearm which he used to threaten Mary (PW1) and others. This court agrees with the learned trial magistrate's statement in his judgment to the effect that the appellant's act of pointing a gun at PW1 (Mary) and his threat to shoot constituted an offence envisaged under section 223 (1) of the penal code and that pointing a gun at anyone is no child's play and what the appellant did could not be dismissed as a bad joke on his part.

This court also agrees with the learned trial magistrate as was established by the evidence that the appellant was moving about with a firearm without authorization thereby making him even more dangerous. This court must therefore find and hereby finds that the appellant's conviction by the learned trial magistrate was sound and proper such that it does not warrant any interference. The sentence meted out against the appellant was lawful.

In sum, this appeal is dismissed in its entirety.

[Delivered and signed this 21st day of January, 2014.]

J.R. KARANJA.

JUDGE.