

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL APPEAL NO. 33 OF 2013

(Being an Appeal Against the Original Conviction and Sentence by the Honourable S.Soita, Acting Chief Magistrate at Kericho in Criminal Case No. 1330 of 2013 in the Judgment Delivered on 24.07.2013)

SOLOMON KIPLANGAT BETT.....APPELLANT

-VERSUS-

REPUBLIC.....RESPONDENT

(Before Hon. Justice Byram Ongaya Thursday 24th October, 2013)

JUDGMENT

The appellant is Solomon Kiplangat Bett. He was charged with the offence of grievous harm contrary to section 70 of the Penal Code. He was convicted as charged upon his own plea of guilty and sentenced to 10 years imprisonment.

The appellant has appealed against the conviction and sentence. To urge the appellant's case, Mr. Koech Advocate submitted to this court as follows:

- a. The charge as drawn was defective because it did not provide for the particulars. Counsel for the appellant submitted that the material particulars that were missing in the charge included the details of the grievous harm alleged. The particulars in the charge were stated thus, **“On 22nd day of April 2013 at about 8.00am at Kipsigor Village in Kericho District within Kericho County, (the appellant) unlawfully did grievous harm to Hellen Chepkirui Rotich.”** This court has considered the charge and particulars of the offence as stated and finds that the particulars were adequate and they disclosed the offence that confronted the appellant and which he was to answer to in self defence. The court further finds that detailed particulars were read to the accused, his plea taken before the conviction and sentence were pronounced by the honourable trial court. They were explained in the appellant's Kipsigis language. Thus, the appellant did not suffer any prejudice before the trial court and this court finds as much.
- b. The second ground of appeal as submitted is that the appellant was not promptly informed about his right to legal representation and assigned legal representation by the state as per Article 50(2) (g) and (h) of the Constitution respectively. Counsel for respondent submitted that the appellant pleaded guilty and therefore the rights as cited never accrued because there was no trial at which the accused would have been represented by an advocate. This court agrees with submissions made for the respondent that the right to legal representation at the trial did not accrue in circumstances whereby the accused had pleaded guilty as charged.

This court has considered the submissions and perused the record of the trial court. There is no reasonable doubt that the appellant committed the offence.

Accordingly, the appeal is dismissed, the conviction is upheld and the appellant shall serve 10 years imprisonment as sentenced by the honourable trial court.

Signed, dated and delivered in court at Kericho this Thursday, 24th October, 2013.

BYRAM ONGAYA

JUDGE