



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
CRIMINAL APPEAL NUMBER 137 OF 2011

DAVID MUCHANGI MWANIKI

MICHAEL NJERU

MICHAEL MBOGO KARUME.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal from the original conviction and sentence in Embu 2013 of 2010 R.M. Oanda R.M on 10th August, 2011)

JUDGMENT

The appellants were charged with the offence of preparing to commit a felony contrary to Section 308(1) of the Penal Code. They were convicted and sentenced to serve for a period of seven years with a fine 30,000/=. They appeal against conviction and sentence.

In have evaluated the evidence and I find that the convictions were based on evidence of PW 1 and PW 2 both police officers who found the appellants with an axe and a knife in circumstances which the learned Magistrate concluded that the offence was established. Learned State Counsel concedes that the sentence was harsh and excessive. The order that commends itself to the court is as follows:

1. The appeal is allowed only to the extent that the sentence of seven years imposed is set aside and substituted with sentence for the time served in prison subject to the appellants being bonded to keep the peace for one year from the date hereof.

D.A.S MAJANJA

JUDGE

16.10.13

Court:

Judgment read and delivered in open court this 16th day of October, 2013

D.A.S MAJANJA

JUDGE

16.10.2013

In the presence of

M/S Aluda for state

Appellant

Njue – Court clerk.