



REPUBLIC OF KENYA

High Court at Mombasa

Criminal Appeal 354 of 2010

JAMES MWANG'OMBEAPPELLANT

VERSUS

REPUBLIC RESPONDENT

(From the Original Conviction and Sentence in the Criminal Case No. 606 of 2009 of the Senior Resident Magistrate's Court at Voi – Nyakundi L.M. - RM)

JUDGMENT

The appellant was Convicted on a charge of grievous harm contrary to section 234 of the Penal Code after full trial and was Sentenced to ten years imprisonment.

The punishment provided for under section 234 of the Penal Code is imprisonment for life.

This appeal is against Sentence only.

The Complainant is the Appellant's daughter-in-law. The Complainant's husband had passed on and then arose a dispute over inheritance which the local administrator had tried to resolve but in vain.

On the 10th day of July, 2009 while armed with a Somali sword, the appellant proceeded to severally cut the complainant and she sustained a deep cut wound on the forehead, multiple cuts on both hands, a deep cut wound on the scapula. X-rays showed a dislocation of the left shoulder. The Doctor assessed the degree of injuries as grievous.

It is noted that the Accused was treated as a first offender. He is an old man. The imprisonment term of ten years is harsh. It is accordingly reduced to five years imprisonment. The appeal is allowed and succeeds to that extent only.

Judgment dated and delivered this **27th** day of **November, 2012**.

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M. MUYA
JUDGE

In the presence of:-

Mr. Jami for the State

The Appellant

Court clerk - Musundi