

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU

Criminal Appeal 63 of 2009

(From original conviction and sentence in Criminal Case No. 390 of 2007 of the Chief Magistrate's court at Nakuru – H. O. BARASA, RM)

JASON NGANGA GICHERU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

JASON NGANGA GICHERU, the appellant was with three others charged with causing grievous harm to Thomas Mbutia Mbutia contrary to Section 234 of the Penal code. They pleaded not guilty but after trial before the Resident Magistrate at Nakuru the appellant's confederates were acquitted but the appellant was convicted and sentenced to 7 years imprisonment. He appealed against both that conviction and sentence.

At the hearing the appellant abandoned the appeal against conviction and pleaded for the reduction of the sentence contending that as a result of his conviction his wife ran away leaving their young child with his mother. He also submitted that in prison he has reformed and been converted.

The record shows that the brawl giving raise to the assault in which the complainant suffered grievous harm arose in a drinking den. The appellant stabbed the complainant and almost completely damaged his lungs. He is however very remorseful and has put up a strong mitigating case. In the circumstances I reduce his imprisonment to a term that will secure his immediate release and order that he be set free forthwith unless otherwise lawfully held.

DATED and delivered this 28th day of January, 2010.

D. K. MARAGA

JUDGE.