



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**Criminal Appeal 222 of 2009**

**JOYCE CHEPCHIRCHIR TERER.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

**JOYCE CHEPCHIRCHIR TERER**, the appellant was charged with causing grievous harm contrary to **Section 234 of Penal Code**. The particulars of the charge against her were that on 6<sup>th</sup> May 2008 at Ogilgei Trading Centre in Njoro in Nakuru District of Rift Valley Province she unlawfully deed grievous harm to Charles Kipkurui Too. She was in count two charged with being in possession of changaa contrary to **Section 3(1)** as read with **Section 4(1)** of the **Changaa Prohibition Act Cap 70 of the Laws of Kenya**. She pleaded guilty to count two and was fined Kshs.5,000/- and in default three months imprisonment. She pleaded not guilty to the charge in count one but after trial she was convicted and sentenced to two years imprisonment. This appeal is against the conviction and sentenced in count one.

At the hearing the appellant abandoned the appeal against conviction and pleaded for the reduction of the sentence. She claimed that the complainant went with a panga to her home and provoked her into assaulting him.

I have considered these submissions. The appellant is not being candid to the court. There is nothing in the record to show that the complainant went to her home with a panga and/or that he provoked her into assaulting him. What happened is that the complainant gave her a Kshs.1,000/- note in settlement of his changaa bill of Kshs.40/-. Instead of giving him change, she, for no apparent reason, poured hot porridge on him after her husband had knocked him down. Alleging non-existent provocation is not help. However, because she has a baby, I reduce her imprisonment to such a term as will secure her immediate release. She shall therefore be released forthwith unless otherwise lawfully held.

**DATED and delivered this 28<sup>th</sup> day of January, 2010.**

**D. K. MARAGA**

**JUDGE.**