

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
OF KISII

Criminal Appeal 146 of 2007

STEPHEN OCHIENG ABANGA APPELLANT

VERSUS

REPUBLIC RESPONDENT

(From original conviction and sentence of the Senior Resident Magistrate's at Homa Bay, in
Criminal Case No.755 of 2007 by S. M. MWENDWA Esq. RM)

JUDGMENT

The appellant was convicted of grievous harm contrary to **section 234** of the **Penal Code** and sentenced to 7 years' imprisonment. He was aggrieved by the said sentence and preferred an appeal to this court. The evidence that was adduced against him revealed that on 2nd June 2007 at about 7 a.m he met **Violet Akinyi Baraza**, the complainant. The appellant had been trying to befriend the complainant but she had completely refused his advances. On the material day, the appellant met the complainant and he ordered her to accompany him. She refused and went away. The appellant ran after her and when he caught up with her he started slashing her legs with a panga. The complainant had not provoked the appellant at all. The appellant was simply bitter with the complainant because she had refused to befriend him. Medical evidence, which was tendered, showed that the injuries that were inflicted on the complainant were very severe and as at August 2007, the complainant could not walk properly.

Having considered the gravity of the offence and the manner in which the offence was committed, I do not see any reason for interfering with the sentence that was passed by the trial court. The maximum sentence for such a felony is life imprisonment. The sentence that was handed down by the trial court cannot therefore be said to be harsh or excessive. I dismiss this appeal.

DATED, SIGNED and DELIVERED at **KISII** this 13th Day of June, 2008.

D. MUSINGA

JUDGE.Delivered in open court in the presence:

_____ for the appellant

Mr. Kemo, Senior Principal State Counsel for the Republic

D. MUSINGA

JUDGE.