

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
Criminal Appeal 86 of 2007

ROBERT GITHOGORI MUCHIKU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

ROBERT GITHOGORI MUCHIKU, the Appellant, was charged with grievous harm contrary to **Section 234** of the **Penal Code**. The particulars of the charge against were that on 23rd may 2006 at Bahati Trading Centre in Nyandarua District within Central Province he unlawfully deed grievous harm to Ann Gathoni Githogori. He pleaded not guilty but after trial before the Resident Magistrate at Nyahururu he was convicted and sentenced to five years imprisonment. He has appealed to this court against that conviction and sentence.

Having perused the lower court record I agree with Mr. Mugambi the learned state counsel that this appeal is hopeless and has absolutely no merit. The Appellant having previously differed with his wife, the complainant in the lower court case, he on 23rd May 2006 met her in a bar at Bahati Trading Centre and viciously attacked her fracturing her right clavicle. The Appellant denied the offence and claimed he knew nothing about the alleged assault but the trial court correctly rejected that defence. The complainant's evidence and that of PW2 and the Appellant's disappearance from his home area for three months conclusively proved the charge against the appellant. The appeal against conviction is therefore hereby dismissed.

The appeal against sentence has equally no merit. As I have said the Appellant viciously attacked his wife fracturing her right clavicle. In the circumstances the sentence of six years imprisonment against a life sentence provided for the offense is quite lenient.

For these reasons id dismiss this appeal in its entirety.

DATED and delivered at Nakuru this 18th day of December, 2008.

D. K. MARAGA

JUDGE