



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

**AT NAKURU**

**Criminal Appeal 105 of 2004**

*(From original conviction and sentence in Criminal Case No. 118 of 2002 of the Senior Magistrate's Court at Narok – S. K. KOROS)*

**BENARD MWANGI NGAWA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

The appellant was charged with grievous harm contrary to **Section 234** of the **Penal Code**. He was convicted and sentenced to seven years imprisonment. He preferred an appeal against the said sentence, saying that it was harsh and excessive. He further told the court that he had been reformed over the period of nearly four years since his imprisonment. He had even studied and successfully sat for several examinations as he served his jail term. He therefore urged the court to allow his appeal and set him free.

Mr. Njogu, state counsel, submitted that the sentence that had been handed down to the appellant was reasonable, considering that the offence carried a maximum sentence of life imprisonment.

I have taken into consideration the fact that the appellant was drunk at the time when he committed the said offence. The appellant is a relative to the complainant, a nephew. He had been in prison since 2/10/2003. He has been punished sufficiently and more significantly, he appears remorseful and considerably reformed. I therefore allow the appeal by reducing the sentence to the period already served. The appellant should now be set at liberty unless otherwise lawfully held.

DATED, SIGNED and DELIVERED at Nakuru this 21<sup>st</sup> day of September 2006.

**D. MUSINGA**

JUDGE

Judgment delivered in open court in the presence of the appellant and N/A for the Attorney General.

**D. MUSINGA**

JUDGE