

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

Crim Appli 10 of 2006

ISAAC ALFRED AMUNGA APPELLANT

VERSUS

REPUBLIC RESPONDENT

**(From original conviction and sentence of the Senior Resident Magistrate's Court at Kilgoris in
Criminal Case No.501 of 2005 – MR. CHEPSEBA –
S.R.M)**

JUDGMENT

The appellant ISAAC ALFRED AMUNGA was convicted on two counts the first of attempted defilement contrary to S.145 (1) P.C. and the second that of Grievous Harm contrary to S.234 Penal Code.

He pleaded guilty to both charges before the Senior Resident Magistrate Kilgoris and was sentenced to 18 years and 10 years imprisonment respectively. He has now appealed against the sentence.

Mr. Kemo the Senior State Counsel opposed the appeal and stated that the offences were serious and the sentences imposed were warranted.

Indeed I concur that the offences were serious. However I think the sentences were harsh and excessive. The appellant was a first offender.

In mitigation he said he was 16 years though the doctor assessed his age as 18 years. He is a young man. He pleaded guilty to the offence.

Court should have considered all those circumstances and not only the seriousness of the offence.

In the circumstances I allow the appeal and set aside the sentences of 18 years and 10 years imprisonment and substitute them with one of 5 years imprisonment on each count to run concurrently from the date of conviction.

Dated 12th October 2006.

KABURU BAUNI

JUDGE

cc. Mobisa

Mr. Chirchir for State

Appellant P.I.P