



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

**Criminal Appeal 104 of 2003**

*(Appeal against both conviction and sentence in the Senior Resident Magistrate's Court at Vihiga in Criminal Case No.255 of 2001) {MR. F. M. KINYANJUI, SRM}*

**WILLIAM GIMOSO .....APPELLANT**

**V E R S U S**

**REPUBLIC .....RESPONDENT**

**J U D G M E N T**

William Gimoso, the Appellant, was charged along with one Japheth Kaduki with the offence of unlawfully causing grievous bodily harm contrary to section 234 of the Penal Code to one **Harun Bulimu** on 21.2.2001 at Losengeli sub-location, Wodanga location in Vihiga District. The trial magistrate, F. M. Kinyanjui, SRM, found the Appellant and his co-accused guilty as charged and imposed a sentence of Shs.20,000/= fine on the Appellant and a similar fine on his co-accused.

In his appeal, the Appellant attacked the judgment of the trial magistrate on the grounds

1. that the court relied on hearsay,
2. that there was no eye witness and
3. that the evidence of PW3 was not credible and
4. that there was no evidence to prove his (appellant's) guilt.

Mr. Karuri, State Counsel, supported the conviction and sentence.

The evidence shows that the complainant was attacked and injured in the morning at around 9.30 a.m. when it was bright. It was the evidence of the complainant that he knew the appellant and his companions who attacked him. There was no legal requirement that PW1's evidence needed corroboration. PWII, Peter Mwachi, found the complainant soon after the attack and helped him to hospital. The evidence of Dr. Sam Yego (PW3) who produced the P3 form showed that the complainant had been grievously injured and the injuries were classified as "maim".

The finding of guilty by the trial magistrate was supported by evidence and the conviction was proper.

The sentence was lenient but I see no reason to vary it as the appellant has completed serving it. The appeal against conviction and sentence is dismissed as lacking in merit.

Dated at Kakamega this 13<sup>TH</sup> day of MAY 2005

**G. B. M. KARIUKI**

**J U D G E**