

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
Criminal Appeal 117 of 2000

JAMES KATHOBIA KAREITHI APPELLANT
VERSUS
REPUBLIC RESPONDENT

(Appeal from original judgment and conviction in District Magistrate's Court at
Gichugu Criminal Case No. 624 of 1999 dated 7th March 2000 by Mr. B. G. Maina
D.M.I – Gichugu)

J U D G M E N T

James Kathobia Kareithi hereinafter referred to as the Appellant was tried and convicted by the District Gichugu of the offence of causing grievous harm contrary section 234 of the Penal Code. He was sentenced to serve a term of 18 months imprisonment.

Being dissatisfied the Appellant has appealed against the conviction and sentence contending that he was not given a fair hearing and that the trial magistrate failed to take into account his relationship with the witness and the fact that there was a land dispute between them.

I have reconsidered and evaluated the evidence. It is clear from the court record that the case was adjourned several times at the request of the defence counsel who failed to attend court on the date of the hearing. The Appellant was given sufficient indulgence and has only his counsel to blame.

With regard to the evidence, I agree with the learned state counsel that there was sufficient evidence before the trial magistrate that the Appellant did attack the complainant and caused him grievous harm. I am satisfied that there was sufficient evidence to uphold the Appellant's conviction. I am further satisfied that the sentence of 18 months was not excessive or harsh. I therefore find no merit in this appeal and do dismiss it in its entirety.

Dated signed and delivered this 10th day of June 2005.

H. M. OKWENGU
JUDGE