



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

**AT MALINDI**

**CRIMINAL APPEAL 7 OF 2005**

*(from original conviction and sentence in Criminal Case No.287 OF 2004 RM'S LAMU COURT)*

**JOHN NJATHI NJENGA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

The appellant faced two counts before the lower Court. On the 1<sup>st</sup> count he was charged with attempted rape contrary to Section 141 of the Penal Code and in the count 2<sup>nd</sup> he was charged with assault causing actual bodily harm.

He was convicted and sentenced to 7 years imprisonment with hard labour on Count 1 and one year imprisonment on count 2 with an order that the two sentences to run concurrently.

He has appealed against both conviction and sentence.

When the appeal came up for hearing the appellant abandoned his appeals against conviction and argued that the sentence was harsh and excessive and did not take into account his mitigating factors.

The Principal State Counsel supported the sentence and submitted that the sentence was lenient as the maximum sentence for attempted rape is life. With respect, I agree with those submissions. I find no new grounds for me to interfere with the sentence imposed by the trial Court.

The appeal is dismissed Orders accordingly.

Dated and delivered at Malindi this 16<sup>th</sup> day of September, 2005.

**W.OUKO**

**JUDGE**

16.9.2005

Coram W. Ouko, J.

Mr.Ogoti for state

Applicant in person

Judgment delivered.

**W.OUKO**

**JUDGE**