



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION**

**Criminal Appeal 228 of 2004**

**HANNINGTON OWUORI OKUMU.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

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

The Appellant **HANNINGTON OWUORI OKUMU** was found guilty and convicted on his own plea of guilty for the offence of **GRIEVOUS HARM** contrary to Section **234** of the **Penal Code**. He was sentenced to seven years imprisonment. He has lodged his appeal only against the sentence. He has urged the court to find that he was remorseful for the offence which he termed domestic affairs. He also urged the court to consider that he was an old man and the sole bread winner of his family. He submitted that the Court should consider substituting his sentence with a non custodial one.

**MISS OKUMU** learned Counsel for the State submitted that she left the matter with the Court. Counsel submitted that even though the Appellant was sentenced to 7 years imprisonment the offence called for a maximum sentence of life imprisonment. Counsel submitted that the Appellant had pleaded guilty to the offence.

the stomach and then tried to escape from the scene. The attack on the Complainant was unprovoked and the motive unclear. From the facts given the Appellant stabbed the Complainant after she refused to allow him to spend a night in her house. The Complainant sustained serious injuries and was admitted in hospital for 5 weeks. She also underwent a surgical operation to repair her intestines according to the P3 form produced in Court as an exhibit. The injuries suffered by the Complainant were quite severe.

In **SAYEKO vs. REPUBLIC 1989 KLR 306 PORTER** and **TANK JJ.** held inter alia;

“The appellate Court will not ordinarily interfere with the discretion exercised by the lower court unless it is evident that the lower court has acted upon some wrong principle or overlooked some material factor or the sentence is manifestly excessive in the circumstances of the case.”

The principle of law expressed by my two brothers is good law and I am persuaded that it is applicable to this case. The learned trial magistrate took into consideration the Appellant’s past good record, the fact he pleaded guilty and therefore saved courts time and the fact that the offence was serious. I am satisfied that the learned trial magistrate acted on the right principles in the exercise of her discretion to impose the sentence that she did. I see no grounds upon which I can interfere with the exercise of that discretion.

The appeal against sentence has no merit and is dismissed in its entirety.

Dated at Nairobi this 17th day of October 2005.

.....

**LESIIT, J.**

**JUDGE**

Read, signed and delivered in the presence of;

.....

**LESIT, J.**

**JUDGE**