

REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL APPEAL NO. 66 OF 2003
MAKINA OUKA ===== APPELLANT
VERSUS
REPUBLIC ===== RESPONDENT

J U D G M E N T

In this case MAKINA OUKA the appellant was convicted on his own plea of guilty of the offence of defiling an imbecile to Section 146 of the Penal and was thereafter sentenced to serve five (5) years imprisonment with hard labour and with 2 strokes of the cane.

In his petition of appeal the appellant alleges that he pleaded guilty because he was threatened by Police Officers. He also claimed that members of public injured him. The record does not indicate that the appellant had complained to the Court on the alleged threats. He pleaded guilty, accepted the facts which disclosed the offence and mitigated. There is therefore no basis for the allegations of threats.

The issue of cut fingers cannot be attributed now to the members of the public when he had told the Magistrate that he was cut by a machine. The appeal in respect to the conviction is without any merit.

The sentence of 5 years imprisonment with hard labour and 2 strokes is not harsh in the circumstances of the case especially when the complainant was both an imbecile and an infant.

The appeal stands dismissed.

Dated and delivered on 18 th February, 2004.

B. K.TANUI

JUDGE