

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL APPEAL NO.317 OF 2003

(From original conviction and sentence of the CM's court at Kisii in criminal case No.3066 of 2001.)

**NANCY KEMUNTO OKIRIGITI APPELLANT
VERSUS
REPUBLIC RESPONDENT**

JUDGMENT:

The appellant was convicted by SRM Kisii for the offence of causing Grievous Harm c/s 234 P.C. and sentenced to two years imprisonment.

The evidence in the subordinate court was candid. Apparently the complainant had taken appellant's fiancé from her. Appellant swore to stab her. On the fateful day the appellant had a knife hidden in her clothes. She followed the complainant and stabbed her on the lower abdomen. The injuries were serious. Complainant's evidence was confirmed by that of JUDY BOSIBORI OMBIRO (PW4) who was with her at the time. The appellant was therefore properly convicted. She was the one who stabbed the complainant. I therefore uphold the conviction.

As for sentence the injuries inflicted were serious. The accused was a first offender. To compound matters she has given birth in prison. I feel that she should have been given a non-custodial sentence. Sentence of two years was harsh. Consequently I substitute it with one of a fine of shs.10,000/= or 6 months imprisonment in default. It is so ordered.

KABURU BAUNI

JUDGE

17/2/04

Signed, dated and delivered on 17/2/04 in presence of appellant.

KABURU BAUNI

JUDGE