



REPUBLIC OF KENYA



KENYA LAW
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**Rono & another v Republic (Criminal Appeal E001 of 2025)
[2025] KEHC 7843 (KLR) (5 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 7843 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL APPEAL E001 OF 2025**

JR KARANJA, J

JUNE 5, 2025

BETWEEN

PATRICK KIPLANGAT RONO 1ST APPELLANT

DENISCHERUIYOT RONO 2ND APPELLANT

AND

THE REPUBLIC RESPONDENT

JUDGMENT

1. The two Appellants, Patrick Kiplangat Rono and Denis Cheruiyot Rono and another appeared before the Senior Resident Magistrate at Kericho charged with three counts viz:-
 - i. Grievous harm contrary to Section 234 of the penal code in that on the 30th December, 2023 at Kapchererel village- Belgut Kericho county the two Appellant jointly did grievous harm to Victor Kiprono Bett.
 - ii. Kidnapping in order to subject to grievous harm, contrary to section 260 of the penal code in that of the 30th December, 2023 at Kapchererel village Belgut Kericho county the two Appellants jointly kidnapped Victor Kiprono Bett in order that he may be subjected to grievous harm.
 - iii. Conspiracy to commit a felony, contrary to section 393 of the penal code in that of the 30th December, 2023 at Kapchererel village –Belgut Kericho county, the two Appellants and another conspired to commit a felony namely attacking Victor Bett.
2. Upon their own plea of guilty to all the counts, the Appellants were convicted on all the three counts after confirming and accepting the correctness of the facts of the case as read to them by the prosecution. Thereafter, both Appellants were sentenced to ten (10) years imprisonment for the first



count, five (5) years imprisonment for the second count and three (3) years imprisonment for the third count. The sentence were to run concurrently.

3. Being dissatisfied with the sentences, the appellants preferred the present appeal. In the petition of appeal, there is all indication that the appeal is on sentence only but in the amended petition of appeal it is indicated that the appeal is on both conviction and sentence. Be that as it may, the Appellants written submissions lays it to rest the fact that this appeal is essentially on sentence rather than conviction. Therefore, the Appellant's conviction by the trial court for all counts remains intact in as much as it remains substantially undisputed. This would therefore mean that grounds two (2) and three (3) of the initial petition of appeal and ground (2) and ground three (3) of the amended petition of appeal are irrelevant for the purposes of this appeal and are accordingly dismissed.
4. Ground four (4) of the amended petition of appeal is the most relevant. The Appellants thus contend that the sentences imposed upon them by the trial court were harsh and excessive in the circumstances of the case. These circumstances were laid bare by the facts of the case as narrated to the Appellants by the prosecution during plea taking to wit;-

“On 30th December, 2023 at 7.30 pm, the complainant was heading home in Kapchereren village when the 1st and 2nd accused attacked him. He knew them. One of the accused Patrick cut him with a panga on the right ankle. They accused him of having an affair with the 1st accused's wife. They pulled him and told him their mother was waiting for him to explain. At the home, they met accused 3 who is accused 1 and accused 2's mother. The mother said they had attacked the wrong person. They started arguing. They then took the complainant and dumped him by the roadside and said they were going to look for the right person. The complainant fell unconscious and was rushed to the hospital. A p3 form was filled.”

5. It is clear to this court that whereas the facts hereinabove disclosed the offence of grievous harm, they cannot be said to have disclosed the offence of kidnapping {count (ii)} or the offence of conspiracy to commit a felony {count (iii)}. Nevertheless, the Appellants accepted the facts and were convicted on all the three counts.
6. For count (i), Section 234 of the *Penal Code* provides that;-

“Any person who unlawfully does grievous harm to another is guilty of a felony and is liable to imprisonment for life”

Both Appellants were handed down a sentence of ten (10) years imprisonment for the offence after being heard in mitigation by the trial court. the sentence was lawful and moderate.

7. For count (ii), Section 260 of the *Penal Code* provides that;-

Any person who kidnaps or abducts any person in order that the person may be subjected to grievous harm or knowing it to be likely that such person will be so subjected or disposed of is guilty of a felony and is liable to imprisonment for ten years”

The two Appellants were sentenced to five (5) years imprisonment under the count. The sentence was lawful.

8. For count (iii), Section 393 of the *Penal Code* provides that;-

“Any person who conspires with another to commit any felony or to do any act in any part of the world which if done in Kenya would be a felony, and which is an offence under the laws



in force in the place where it is proposed to be done is guilty of a felony and is liable if no other punishment is provided to imprisonment for seven years or if the greatest punishment to which a person convicted of the felony in question is liable is less than imprisonment for seven years, then to that lesser punishment”

Under this count the Appellants were sentenced to three (3) years imprisonment. This was also a lawful sentence.

9. Although the entire concurrent sentence was lawful, the circumstances of this case called for a much lenient sentence especially considering that the Appellant were first offenders and have since expressed profound remorse for the offences. In that regard this court deems it just and fair to temper justice with mercy and reduce the sentences downwards to three (3) years imprisonment for the first count and two (2) years imprisonment for each of the remaining two counts. These are to run concurrently meaning that the Appellants shall serve a cumulative sentence of three (3) years for all counts.
10. Given that the two Appellants have already served one year or so of the sentence, they shall serve the remainder of the period on probation under the supervision of the County Probation Officer Kericho. The two Appellants shall forthwith be released to the probation officer for implementation of the sentence as herein revised.
11. The appeal is thus allowed as hereinabove indicated.
12. Ordered accordingly.

J.R. KARANJAH

JUDGE.

DATED AND DELIVERED ON 5TH DAY OF JUNE, 2025.

Presence of:-

Mr. Karanja state counsel

Mr. Simon Magwa court assistant

1st Appellant; - present person

2nd Appellant; - Present in person

