



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

CRIMINAL APPEAL NO. 212 OF 2019

COLLINS KIPLIMO.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

1. This Appeal is against sentence only. On 6th June 2019, the Appellant unlawfully assaulted and caused grievous harm on Nelson Katam, Jane Salbet and Nelly Jepkemei. Upon pleading guilty, he was convicted and sentenced to serve 30 years imprisonment on each count. On the same day he assaulted and caused actual bodily harm upon Joseph Kiprotich and threatened to kill Jackline Jerotich. For his unlawful conduct he was sentenced to a 5 year jail term for each offence. All the five sentences were to run concurrently.

2. The Appellant argues that he was drunk at the time of committing the offences. He also states that the sentences imposed are harsh as cumulatively it adds up to 100 years imprisonment. He states that he is remorseful and has reformed.

3. The State opposes the Appeal and argues that in the circumstances of the case, the sentence imposed was lenient. That the Appellant assaulted four people with three suffering grievous injuries. The Court was also asked to consider that the manner in which the Appellant committed the crimes, one after the other, left no doubt that he had an intention to kill.

4. The medical reports produced are proof of the seriousness of the injuries sustained by the victims. Nelly Jepkemei's wrist and 1/3 forearm was amputated, she had a compound fracture of the lower 1/3 tibia and a depressed fracture of the scalp. Jane Salbet suffered multiple scalp wounds, cuts on the right leg and posterior dislocation of left shoulder.

5. The Court has not seen the medical report of the other two victims but the proceedings suggest that they were produced and admitted into evidence (See Page 5 of the proceedings).

6. In respect to the two victims whose reports this Court has been able to see, they suffered grievous harm. For the injuries he caused on these two victims, the Appellant was charged and convicted of an offence of unlawfully doing grievous harm to another Under Section 234 of the Penal Code which provides:-

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

7. As correctly pointed out the maximum sentence under that provision is imprisonment for life. And so a sentence of 30 years may not be excessive more so because of the gravity of the injuries suffered by the two victims, one who lost both hands to amputation. In addition, the offences were committed on the same day in which he also assaulted two other people and threatened to kill another.

8. Nevertheless, considering that the accused is 31 years and so as to give him a chance to engage in a meaningful life after he serves his sentence, I reduce the sentence under section 234 to 15 years imprisonment for each Count from the date of initial sentence. The other sentences remain the same. All to run concurrently.

Dated, Signed and Delivered in Court at Nairobi this 1st Day of February 2021

F. TUIYOTT

JUDGE

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on 17th April 2020, this Judgment has been delivered to the parties through virtual platform.

F. TUIYOTT

JUDGE

PRESENT:

Collins Kiplimo (the Appellant) present in person.

Miss Muhonja for the State