



**REPUBLIC OF KENYA**

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

**CRIMINAL APPEAL NO. 9 OF 2020**

**ABDIRIZACK ADAN MIRE.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**(Being An appeal from the decision of Honourable D.W. Mbuteti, Resident Magistrate, in Chief Magistrates Court Criminal Case No. 844 of 2019)**

**JUDGEMENT**

1. The Appellant was charged with the offence of grievous harm contrary to section 234 of the Penal Code.

The particulars of the offence being that on the 30<sup>th</sup> of October, 2019 at around 15.30 hrs at Ngamia road area in Garissa township within Garissa County, unlawfully caused grievous harm to Sangama Ali Yarehow.

2. The Appellant pleaded guilty to the offence and was sentenced to 20 years imprisonment.

3. The facts of the case which the Appellant equally admitted are that on the material day the appellant asked his aged mother for money to buy khat and when she failed to provide the same, he threatened to kill her, took a knife and stabbed the mother with the said knife on her left arm.

4. Despite the Appellant pleading guilty he was dissatisfied with the conviction and appealed to this court on grounds that the trial court:

a. **Relied on insufficient and contradictory evidence.**

b. **The court relied on circumstantial evidence.**

c. **He was denied fair hearing in line with Article 50 of the Kenyan Constitution 2010 and**

d. **The case was not proved beyond reasonable doubt.**

5. All the above grounds are ill advised as the Appellant pleaded guilty to the offence, convicted and accordingly sentenced. The said grounds of appeal are doomed to fail, which they hereby do.

6. At the point of hearing of the appeal, the Appellant did not speak to his grounds of appeal but sought for reduction of his sentence stating that he is epileptic and was unable to explain himself at the trial.

7. The State opposed the Appeal on grounds that the conviction was based on the appellant's own admission and the sentence was lawful and lenient. The state urged that the appeal be dismissed.

8. From the record the Appellant has previously harassed his family members including his father and mother. Indeed, he assaulted his mother twice. The appellant is said to abuse substance.

9. The Appellant in my view is a danger to those who are close to him and indeed the society at large. He was not a first offender either. The shorter sentences previously meted out to him did not deter him from his unbecoming and harmful behaviour. He does not deserve mercy.

10. Based on the above, the court finds the sentence appropriate in the circumstances and does not see any reason to interfere with the same.

11. Appeal is therefore dismissed.

**DELIVERED AND SIGNED AT GARISSA THIS 10<sup>TH</sup> DAY OF JUNE, 2021.**

.....

**ALI-ARONI**

**JUDGE**