

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

CRIMINAL APPEAL NO. 9 OF 2018

GEOFFREY YEGON.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an appeal from the judgement, conviction and sentence of Hon Juma dated 9th March 2018 in the Chief Magistrate's Court in Criminal Case 1982 of 2016, Republic v Geoffrey Yegon)

JUDGEMENT

1. The appellant has appealed against his sentence of five years' imprisonment in respect of the offence of grievous harm contrary to section 234 of the Penal Code (Cap 63) Laws of Kenya.
2. In this court, the appellant has raised four grounds in his amended petition of appeal.
3. In a coalesced form, the appellant has faulted the trial court for imposing an excessively harsh sentence, since he was a first offender and was a family man with family responsibilities. Furthermore, he now submits that he is remorseful and repentant and he is the sole bread winner and has urged the court to impose a non-custodial sentence.
4. The appellant orally submitted that he now has a diploma in pastoral studies and has urged the court to release him to go and perform pastoral duties.
5. Mr. Omwega for the state has supported the sentence, for the offence carries a life imprisonment and the one imposed is proper. Additionally, he has also supported the sentence since the victim was his wife and therefore this was a case of domestic violence. Finally, he submitted that the sentence ought to be deterrent to stop domestic violence.
6. In sentencing the appellant, the trial court took into account that the appellant was a first offender and his mitigation. The court then said that: *"People who engage in such violence without any provocation should not be encouraged to carry on or have a chance to repeat the same. To discourage the potential offenders a custodial sentence is deserved."*
7. I find that the trial court took into account relevant factors in sentencing the appellant. I find that the appellant repeatedly hit his victim on the head and inflicted a fracture in her finger; which injuries were classified as grievous harm. The attack was vicious and heartless.
8. I therefore find no basis for interfering with the discretion that was exercised by the trial court.
9. The appeal fails with the result that it is hereby dismissed.

Judgement signed, dated and delivered in open court at Narok this 2nd day of October 2019 in the presence of the appellant and Mr. Mwangi for the state.

J. M. Bwonwonga

Judge

2/10/2019