



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NANYUKI**

**CRIMINAL APPEAL NO 105 OF 2017**

**STEPHEN KARANJA WANJOHI.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**(Appeal from original sentence dated 31/10/2017 in Nanyuki**

**CM Criminal Case No 912 of 2016 - L Mutai, CM)**

**J U D G M E N T**

1. The Appellant **STEPHEN KARANJA WANJOHI** was convicted after trial of *attempted murder* contrary to **section 220(a)** of the *Penal Code*. It was alleged in the particulars of the charge that on 10<sup>th</sup> August, 2016 at about 7 p.m. at Matanya Stage area within Nanyuki Town in Laikipia County, he wilfully and unlawfully attempted to cause the death of one **NANCY GATWIRI KARANJA** by stabbing her with a knife. On 31<sup>st</sup> October, 2017 he was sentenced to serve ten (10) years imprisonment. He has appealed only against that sentence.
2. In his petition of appeal the Appellant has pointed out that he was in remand custody for a period of fifteen (15) months during his trial, and that the trial court did not take this into account when sentencing him. He has also pleaded that he has chronic illnesses, namely diabetes and high blood pressure, which require special attention in regard to diet, which is not available in prison. Finally, the Appellant has stated that he is in his early thirties, married and with two young children who are looked after by their grandmother as their mother (his wife) deserted home.
3. The complainant was the Appellant's estranged wife. He stabbed her once in the back and once in the left ear. This was after she declined his request for sexual intercourse. The trial court was satisfied that the circumstances of the attack were such that the Appellant's intention was to cause the complainant grievous harm or death.
4. The offence of attempted murder carries a maximum sentence of life imprisonment. The Appellant got only ten (10) years. But the record shows that the trial court did not take into account the period that the Appellant had spent in custody during his trial. The charge sheet showed that the Appellant was arrested on 10<sup>th</sup> August, 2016 and apprehended in court on 12<sup>th</sup> August, 2016. As he was sentenced on 31<sup>st</sup> October, 2017, it means he had spent one (1) year two (2) months and 21 days in remand custody during his trial. This period ought to have been taken into account by the trial court when sentencing him. This was not done.
5. Except for that one aspect, there would be no valid reason at all to interfere with the Appellant's sentence, which was richly deserved (and in fact on the lenient side) in the circumstances of the case.
6. I will therefore interfere with the sentence meted out to the Appellant by reducing the term of imprisonment from ten (10) years to eight (8) years, nine (9) months and nine (9) days with effect from the date of sentencing, that is, 31<sup>st</sup> October 2017. To that limited extent only does the appeal against sentence succeed. It is so ordered.

**DATED AND SIGNED AT NANYUKI THIS 16<sup>TH</sup> DAY OF JULY 2018**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT NANYUKI THIS 19<sup>TH</sup> DAY OF JULY 2018**