

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL APPEAL NO. 65 OF 2015

TERESIAH NCULUBI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(From the original conviction and sentence in Criminal Case No.1198 of 2014 of the Chief Magistrate's Court at Maua by Hon. C.Kemei – Resident Magistrate)

JUDGMENT

The appellant, **TERESIAH NCULUBI** , was Charged with an Offence of grievous harm contrary to section 234 of the Penal Code.

The particulars of the offence were that on 13th March 2014 at Kiguru location in Igembe South District of Meru County she unlawfully did grievous harm to **Joseph Kigo Kamande**.

The appellant was tried and was convicted. She was sentenced to serve three years imprisonment. She had appealed against both conviction and sentence but at the time of the hearing she withdrew her appeal against the conviction. She therefore contested the sentence.

The state opposed the appeal and was represented by Mr. Murage, the learned counsel.

I have perused the record of the trial court. I have noted that the appellant attacked the complainant without any provocation whatsoever. The trial magistrate was considering the option of giving her a non custodial sentence but the pre-sentence report was unfavorable. It also occurred that she had lied to the court in her mitigation by claiming her husband was insane. She repeated the same at the time of hearing of this appeal. I do not therefore find any basis to interfere with the sentence meted out by the learned trial magistrate. The appeal against the sentence is dismissed.

DATED at Meru 11 day of May 2016

KIARIE WAWERU KIARIE

JUDGE