



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MACHAKOS**  
**CRIMINAL APPEAL NO 262 OF 1987**

**MUIA.....APPELLANT**

**V**

**REPUBLIC.....RESPONDENT**

**JUDGMENT.**

The appellant was convicted for assault occasioning actual bodily harm and sentenced to imprisonment for 6 months and 2 strokes of the cane.

The complainant and appellant appeared to have reconciled prior to the trial but this fact may not have been disclosed to the trial magistrate for purposes of dealing with the case under section 176 and 294 of the Criminal Procedure code.

As the appellant pleaded guilty his conviction is upheld. As he had reconciled with the complainant prior to the trial that fact should mitigate the sentence of the trial court, which sentence is therefore set aside. The appellant is discharged on condition that he commits no offence during the period of 12 months from to day.

Order accordingly.

**December 14,1987**

**TORGBOR**

**JUDGE**