REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

CRIMINAL REVISION NO. E021 OF 2025

FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL, CASE NO: E002 OF 2024 OF THE CHIEF MAGISTRATE'S COURT AT NGONG

LETOYA KIYAMBA PONGOI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. This matter was referred for revision. I have called for and perused the lower court record and the presentence report dated 31/01/2024.
2. The Accused was charged with Grievous harm under Section 234 of the Penal Code. The complainant is Felistar Letoya his estranged wife.
3. The Accused was convicted on his own plead of guilty. From admitted facts, the Accused went to the complainant's home on 4/1/2024, tied her to a tree and assaulted her for 4 hours, occasioning her grievous injuries and left her naked and tied to the tree overnight. She was admitted in hospital for seven days.

4. The sentiments of the Applicant, his family and community as captured in the pre-sentence report appeared to condone the offence by suggesting that the Accused as a husband was pursuant to culture entitled to 'discipline' his wife. The probation officer was not persuaded that the Applicant's expression of remorse was sincere.
5. From the injuries recorded in the P3 form tendered as PEXh1, the complainant sustained serious physical injuries, not to mention emotional trauma. As observed by the probation officer, this is an instance of gross gender-based violence.
6. I agree with the trial court that in the circumstances of the case the Accused did not merit a non-custodial sentence. More so as the complainant expressed fear for her life should the Accused be released, citing earlier threats from the Accused. The review application is without merit and is hereby rejected.

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C. Meoli

Judge

8/10/2025