



**Gatwiri v Republic (Criminal Appeal E012 of 2025)
[2026] KEHC 2069 (KLR) (24 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 2069 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL APPEAL E012 OF 2025
SM GITHINJI, J
FEBRUARY 24, 2026**

BETWEEN

DOREEN GATWIRI APPELLANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. Doreen Gatwiri was charged in the Lower Court with the offence of grievous harm, contrary to Section 234 of the Penal Code.
2. The particulars of this offence are that on the 17th day of June 2020 at Irindi Village, Kirindara Sub-location, Ntunene location, in Igembe North Sub-County within Meru County, the Appellant unlawfully did grievous harm to Purity Karimi.
3. The prosecution case is that the victim herein who offered evidence as PW-1 is a teacher at Irindi Ushidi Baptist Academy. She hails from Irindi. On 17/6/2020 at 6.30 Pm, she was on her way to a kiosk that is behind her toilet. Suddenly she was accosted by the Appellant who was also heading to the said kiosk. The Appellant was armed with a panga. She insulted the victim calling her a “Mukenye” (uncircumcised woman) and stating that she will circumcise her using her finger nails. She further told the victim that her children were not born of her husband and that she had aborted several times of which she was a witness. She alleged that the victim was pretending to be a teacher and was a menial worker. She then moved to cut the victim with the machete. The victim held her and disarmed her. She threw the machete away. The Appellant took a stone of which she used to strike the victim’s left eye twice. The victim consequently fell down unconscious. The victim’s children, a daughter (PW-2) and a son called Mutugi, witnessed the incident. They raised alarm and went to call PW-6 who’s a mother-in-law to the victim. They urged her to go and take their mother to the hospital as she had been assaulted by Gatwiri with a stone on one eye, and was lying near the toilet.



4. Others who got to the scene and found the Appellant assaulting the victim are PW-3, PW-4 and PW-5. PW-4 intervened by getting hold of the Appellant who then left the scene.
5. PW-6 took the victim to Laare Police Station where they reported the case. She was then taken to a hospital at Laare. She was referred to Maua, then Meru Level 5 and ended up at Kikuyu hospital.
6. The case was investigated by PW-7 who issued the victim with a P3 form. The P3 form was filled by Dr. James Kisilu at Meru Referral Hospital. The Doctor upon examination noted that the left eye could not totally see and it had traumatic uretitis. The right forearm had healed bruises. The probable weapon used was blunt. The degree of injury was assessed as grievous harm. The P3 was thus filled and produced as an exhibit by PW-8.
7. The Appellant was arrested on 26/1/2021 by PC Dalmas Jesse and later charged with the offence.
8. The Appellant gave a brief sworn statement in her defence and called two relatives as witnesses. She said she is from Irindi area and is unemployed. She denied having attacked the victim. She alleged the case was fabricated as the victim claimed the Appellant was with her (victims) husband. Her witnesses said they never heard of the claimed attack and nor did they witness it.
9. The trial Court evaluated the evidence and found the Appellant guilty of the offence. She was convicted of it and sentence to serve 3 years imprisonment.
10. Dissatisfied with the said conviction and sentence, she appealed to this Court on the following grounds:-
 1. Prosecution case is inconsistent and does not prove the offence to the required standard.
 2. Trial Court took into consideration extraneous matters.
 3. Motive for the offence was not established.
 4. The Appellant was not positively identified.
 5. His mitigation was not weighed.
 6. The sentence meted was harsh and excessive.
 7. The offence was not proved by the prosecution beyond reasonable doubt.
 8. The Clinician who filled the medical report was not qualified to do so.
11. The Respondent opposed the Appeal which was canvassed by way of written submissions. Both sides filed their respective submissions.
12. The duty of the first Appellate Court as was held in *Okeno –vs- Republic (1972) EA 32*, is to conduct a fresh and exhaustive evaluation of the entire evidence and draw its own independent conclusions, while bearing in mind that it never saw or heard the witnesses testify.
13. The offence of grievous harm is created by Section 234 of the Penal Code (cap 63 Laws of Kenya) which states:-

“Any person who unlawfully does grievous harm to another is guilty of a felony and is liable to imprisonment for life”.



14. “Grievous harm” is defined under Section 4 of the Penal Code. It means:-

“ Any harm which amounts to maim or dangerous harm, or seriously or permanently injures health, or which extends to permanent disfigurement, or to any permanent or serious injury to any external or internal organs, Membrane or Sense.”
15. The ingredients for the offence of grievous harm, which the Prosecution need establish beyond reasonable doubt are therefore:-
 1. That the Complainant suffered grievous harm.
 2. The harm was caused unlawfully.
 3. The accused caused the grievous harm.
16. On the first issue, the victim in this case suffered a left eye injury. It was allegedly struck with a stone. The evidence of PW-8 shows the said eye could not totally see and had suffered traumatic urethritis. The degree of the said injury was assessed as grievous harm. The fact is not disputed or challenged of all and I find it settled that the victim suffered grievous harm.
17. The Appellant in cross-examination revealed that the victim had accused her of having an illicit love affair with her husband. She had even claimed that Appellant had a child with him. This could have been the motive for the attack. She was at first armed with a machete of which the victim managed to snatch and throw away. She then took a stone of which she used to strike the left eye. The attack was not in self defence or defence of property and cannot therefore legally be justified. It was therefore unlawful.
18. On identification of the Appellant as the real culprit, there is firstly the evidence of PW-1. The incident happened at 6.30 Pm when still there is ample day light. The evidence of PW-6 shows that the Appellant was a village mate and is also their relative. She was therefore well known to PW-1 (victim) who could not have made a mistake of her. The cross-examination of the victim by the Appellant which reveals motive for the attack, shows the two knew each other well before then. The evidence is buttressed by the evidence of the other eye witnesses present who placed her at the scene. These are PW-2, PW-3, PW-4, and PW-5. There’s no doubt that she’s the real culprit.
19. I do agree there are minor discrepancies in the witnesses testimonies, but as was found in the case of Twehangane Alfred –vs- Uganda (2003) UGCA 6, Minor contradictions in the prosecution case which do not effect the main substance of the charge should be ignored unless they point to deliberate untruthfulness.
20. The Appellant’s defence is of mere denial. Her witnesses were not at the scene and heard of no such incident. The details in the prosecution case shows the case could not have been fabricated against the Appellant. She’s the real culprit and committed the offence charged with. She was rightly convicted.
21. The offence of grievous harm carries on the upper side life imprisonment. The Appellant herein was sentenced to serve 3 years imprisonment. In Bernard Kimani Gacheru -vs- Republic (2002) eKLR, the Court held that sentencing is a matter that rests in the discretion of the trial Court, and an Appellate Court will not easily interfere with that discretion unless it is evident that the trial Court acted on wrong principles or overlooked material factors.
22. Three years imprisonment given the circumstances of this case cannot be said to be a harsh and an excessive sentence. It’s actually lenient, and I find no justifiable cause to interfere with the same.



23. The bottom line is that the Appeal lacks merit and is hereby dismissed.

DATED AND DELIVERED AT MERU THIS 24TH DAY OF FEBRUARY, 2026.

S.M. GITHINJI

JUDGE

In Present of:-

Appellant at Meru Women G. K. Prison

Ms. Adhi for the State

