

HCB 203, Bukenya vs. Uganda(1967)EA 341, Ali Abadi Sabria Vs. Uganda CR APP. 9/1987, Penekasi Mukibi vs. Uganda 1972 HCB 51, Martin Malinga vs. Uganda (1998)KLR II.

The gist of all those cases is that;

In a plea of guilty, the accused must plead to all necessary ingredient of causing grievous harm.

I agree that the record shows that the Learned trial Magistrate never called upon the accused to plead to all the ingredients of grievous harm.

It's also true that contrary to the law and practice as in ***Uganda vs. Savirio Ello CR NO 96/1977***, the accused pleaded to facts which were at variance with the medical report. Observations as pointed out by counsel are correct in that the multiple injuries referred to by the prosecutor are missing on the exhibited medical report. The only injury was on her middle finger and therefore it was erroneous for the medical officer to classify that as” Grievous harm.”

I agree with the reasoning in the cited cases of ***Uganda vs. Mungai Mwaura((MB112/70) 1970 HCB, Uganda vs. Boniface Seyambe CR 157/1997, Namis Kefa Vs. Uganda HCR APP. 34 /2009, Wamoto John Vs. Uganda CR APP 10/2009***

And find that, the plea was equivocal, and could not sustain the plea for grievous harm, but sustained the charge of the lesser offence of assault occasioning actual bodily harm. Like in the cited cases above, I will set aside the conviction based on

the charge of grievous harm and substitute it with a conviction for assault occasioning actual bodily harm contrary to section 288 of the Penal Code Act.

This disposes off grounds 1, 2, and 3 as proved (Section 34(1), 2(b)(c) CPC, followed).

On ground 4, I adopt the reasoning of appellant, and do agree with the cited authorities. Under Section 34(1), 2(b) and (c) of the Criminal Procedure Code, this court is empowered to substitute a conviction of an appellant of a serious charge with a minor offence and thereby alter the sentence.

As this court has already convicted the appellant of the minor offence of occasioning actual bodily harm. With the law in mind and arguments as raised by counsel in mind, the sentence of 3 years is hereby set aside, but taking cognizance of the offence and circumstances under which it was committed, accused is to serve 12 months imprisonment. It is therefore ordered that the sentence of 3 years be reduced to a sentence of 12 months.

This ground therefore succeeds as above.

Finally the appeal is allowed with orders as above. I so order.

Henry I. Kawesa
JUDGE
18.09.2014