

LL/CR/333/05/09

IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CRIMINAL APPEAL NO. 90 OF 2009

BETWEEN

CHATENGA LANGSON.....APPELLANT

AND

THE REPUBLICRESPONDENT

From the First Grade Magistrate Court sitting at Lilongwe.
Being Criminal Case No. 147 of 2009

CORAM: HON. JUSTICE CHINANGWA.J

Appellant; Present & Unrepresented
Miss Jere; Counsel for Respondent
Court Interpreter, E. Kafotokoza
Court Reporter; Z. Mthunzi

JUDGMENT

The appellant Chatenga Langson appeared before the First Grade Magistrate Court sitting at Lilongwe from 22nd May, 2009 to 2nd June, 2009. It was on a charge of Unlawful wounding contrary to section 241(a) of the Penal Code. He was convicted on his own plea of guilty and sentenced to 18 months penal servitude with effect from the date of arrest 21st May, 2009.

At this juncture I remind myself to bear in mind sections 3 and 5(1) of the Criminal Procedure & Evidence Code. I will also have to scrutinize the facts before the trial court.

The petition of appeal is in Chichewa. My understanding is that he is appealing against conviction and sentence. On conviction that he acted in self-defence because the complainant had attacked him. On sentence that it is excessive because he is a first offender. That it was not a premeditated crime.

Facts on record are that on 15th May, 2009 the complainant Patinala Saliwa approached the appellant at Mitundu trading centre to enquire about the rumours spreading against the complainant's wife. To the effect that she was spreading rumours that appellant was a thief. The enquiry did not go down well with appellant. He produced a panga knife and hacked complainant. Complainant reported the matter at Mitundu police station. He was referred to Mlare hospital for treatment. There is a medical report exp 2 to the effect that complainant sustained cuts on the right leg and face. Appellant was arrested and charged with unlawful wounding to which he pleaded guilty in court.

Counsel Miss Jere for the State submitted that appellant cannot appeal against conviction resulting from a plea of guilty. On sentence she submitted that it should be upheld. For it was appellant who attacked the complainant.

My starting point is on section 348 of the Criminal Procedure & Evidence Code. It provides:

“Section 348, No appeal shall be allowed in the case of any accused who has pleaded guilty and who has been convicted by a subordinate court on such plea, except as to the extent or legality of any sentence imposed as a consequence of such conviction.”

Therefore the appeal against conviction fails.

I now proceed to sentence. Indeed the appellant is a first offender and did plead guilty. However, a panga knife is a lethal weapon which appellant should not have used to settle a disagreement. Appellant’s action was uncalled for and cannot be condoned. In the circumstances a sentence of 18 months penal servitude is appropriate.

On the final analysis both conviction and sentence are upheld.

Appeal dismissed.

Pronounced in open court at Lilongwe on the 07th day of August, 2009.

R.R. Chinangwa

JUDGE