

**IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CRIMINAL APPEAL NO. 139OF 2008**

FLORA JEKEAPPELLANT

AND

THE REPUBLICRESPONDENT

From the First Grade Magistrate Court sitting at Dedza.
Being Criminal Case No. 166 of 2007

CORAM: HON JUSTICE CHINANGWA

Jangale, Counsel for the State
Appellant, Present & Unrepresented
Kaferaanthu, Court Interpreter
Mrs Kabaghe, Court reporter

JUDGMENT

The appellant Flora Jeke appeared before the First Grade Magistrate Court sitting at Dedza on 14th November, 2007. It was on a charge of unlawful wounding contrary to section 241(a) of the Penal Code. She was convicted on her own

plea of guilty and sentenced to 18 months penal servitude.

On careful examination of the court record it would appear that the root cause of animosity between complainant and appellant is a man. The husband of appellant. That man was alleged to be having an illicit affair with complainant. The appellant was displeased. Although complainant and appellant are related, the relationship soured. This culminated to the incident of 12th November, 2007 when they engaged in a showdown. Appellant used a weapon. It is not clear whether it was a razor blade or pangknife. She inflicted wounds on the complainant and her mother. They received treatment at the district hospital, Dedza. Medical reports are marked ex1. Police arrested appellant and prosecuted her on the offence of unlawful wounding.

She appeals to this court against sentence only. That she is a first offender and that she pleaded

guilty. That she has a young child to take care of.

The state opposed the appeal in that the mitigating factors were already taken into account. That the custodial term is appropriate.

Indeed the trial court did consider mitigating factors in favour to the appellant, but considered it appropriate to impose a custodial term. The trial court cannot be faulted. However, she is still a young woman of about 20 years and she has a young child to look after. I would consider her appeal on humanitarian grounds. The conviction is confirmed, but the sentence of 18 months I.H.L. is substituted with such sentence that would result to her immediate release unless held on other lawful ground.

Appeal allowed.

Pronounced in Open Court this 20th day of
February, 2008 at Lilongwe District Registry

R.R. Chinangwa
JUDGE