



**IN THE HIGH COURT OF MALAWI**

**PRINCIPAL REGISTRY**

**CRIMINAL DIVISION**

**CONFIRMATION CASE NO. 1 OF 2021**

**(Being Criminal Case No. 305 of 2017 before the First Grade Magistrate Court Sitting at Blantyre)**

**THE REPUBLIC**

**V**

**DANIEL MANDEVU**

**Coram: Justice Vikochi Chima**

**Mr Rodney Mkweza, Senior State Advocate**

**Mr Humphrey Panyanja, Senior Legal Aid Advocate**

**Mrs Moyo, Court Clerk**

**ORDER ON CONFIRMATION**

**Chima J**

The accused was convicted of committing an act intended to cause grievous bodily harm contrary to section 235 (a) of the Penal Code. He was sentenced to three years imprisonment with hard labour. The reviewing judge was of the view that there be consideration for the sentence to be enhanced. The convict herein pressed a hot iron three times on his wife during a confrontation with her whereby he accused her of having an affair with another man. The convict pleaded guilty to the charge.

Counsel for the State has submitted that the sentence be enhanced to at least 5 years imprisonment with hard labour and has cited a number of authorities including *Edson Chilunga v Rep*<sup>1</sup> and *Naison Lucius v Rep*.<sup>2</sup> Counsel for the defence, however, is of the view that the sentence is a right one. In the *Edison Chilunga* case, the appellant assaulted the complainant because he thought that while the complainant passed by the appellant's house, the complainant had stoned the appellant's dog.

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<sup>1</sup> Criminal Appeal No. 67 of 2008

<sup>2</sup> Criminal Appeal No. 46 of 2008

The complainant sustained a broken femur which led to one of his legs being shorter than the other. He became lame and had to limp as he walked. He was charged in the magistrate court with committing an act intended to cause grievous bodily harm and was convicted. He was sentenced to four and a half years imprisonment with hard labour. Having appealed against his sentence, his appeal was dismissed in view of the injury he caused and despite his being a first offender.

In the other case, the appellant hit the male friend of his ex-wife with a metal bar. He sustained a broken collarbone and an injury on the right cheek. He too was charged with committing an act intended to cause grievous bodily harm. He was convicted and sentenced to eight years imprisonment with hard labour. On appeal, the sentence was stated to have been harsh and was reduced to four years imprisonment with hard labour. The court noted that although the offence had been well-calculated, the appellant was a young man who was 27 years of age at the time of the commission of the offence and also the fact that he was a first offender.

The offence of causing grievous bodily harm is a felony and bears a maximum sentence of fourteen years imprisonment. In this case, the convict was 42 years old at the time he committed the offence. He was a full adult who understood that crime has bitter consequences. The medical document on the case file, however, is incomplete. It states that it has an attachment detailing the extent of the burns. This attachment is not there on the file. As such, it is difficult to know exactly the truest extent of the injuries. Suffice to state that burns from a hot iron are not a light matter. Of course, the convict is a first offender and he pleaded guilty. In view of the authorities cited above and in the light of the injuries in this case, the sentence of three years imprisonment with hard labour is appropriate and it is confirmed.

Made in open court this day the

6th

of September 2021

  
Justice Vikochi Chima