

TANZANIA / JUDGMENT

19710602 TZCA Dar es Salaam

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TZCADECIDED
2 June 1971

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IN THE HIGH COURT OF TANZANIA AT DAR ES SALAAM Criminal Appeal No 200 of 1971

- Original Criminal Case No. '469 of 1970 of the District Court of Liridi District at Linchi .. . Before C. G. Ntenga, B8q., Resident Magistrate •BAsEIDx.Apn!mAI APPELLANT
- versus . •• . THE REPUBLIC I. , • • • • • BESPOIWEENT CRARGs Assault causing actual bodily harm c/e 241 of the Penal Code. ItTDGMTNT PATL AG. 3. The appellant was convicted of a3sai1 -t causing bodily harm and was sentenced. to' two years' imprisonment by the Resident Magistrate Lindis He is now appealing against the conviction. The appeal was admitted because the sentence appeared to be excessive. . . 'The learned State Attorney submitted that the guilt of the appellant was proved conclusively on the strength of the evidence adduced before the trial court. There were eye witnesses to the incident who gave evidence in court. The learned State Attorney further submitted that there is nothing which would make this Court allow the appeal* But concluded that the sentence of two years' imprisonment imposed on the appellant for this offence is very high, particularly when the appellant is a first offender. Considering the evidence on record I find that there was more than ample evidence before the trial court which proved conclusively the guilt of the appellant. The case was tried with
- extreme care by the trial magistrate and there is nothing in the 'evidence or in the memorandum, of appeal which will make me reverse the finding of the trial magistrate. Accordingly I dismiss the % appeal against conviction in its entirety. ' '•
- ' ' As for the sentence of two years' imprisonment, it does indeed.. appear to be manifestly excessive. The Police Form 3 which was produced before the trial court is on record. and it narrates
- • in detail the injuries received by the complainant. The injuries •
- were more ly.bleeding of the nose as a result of the blow the •• ' complainant received when he was hit by the appellant. This
- • injury and the sentence' of two years' imprisonment are incompatible •• • and the sentence of two years' imprisonment is completely out

- ' of proportion to the injuries izifliotqd. . Moreover, . the
- Las • learned State Attorney submitted thatithe appellant is a first
- • offender and ig a yowg person his .entenoe of two years'
- •, ' • imprisonment is indeed, excessive. I agree with the submission,of the 'learned State Attorney. I reduce it to nine monthe' imprisonment.
- •
- • = Delivered in Court. at Dares Salsam this 2nd day of
- • June, 1971. • . • '• (a. B. PATEL) AG. 3E1D02.

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Prepared on 23 October 2026 · Esheria