

TANZANIA / JUDGMENT

# 19730720 TZHC Mwanza

COURT  
TZHCDECIDED  
20 July 1973

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C cc: C - T:zIA 1 -7 AT IHfAZA. APPELLATE JuRISDICTION HIGH COURT CRIMINAL APPEAL NO. 506 OF 1972 Original Crinal 0ase No. 382 of 1972 of the District Court. of Musoma District at Musoma - Before: J.J.A. Liwale S Esq., Resident Magistrate. IRUI\TCrO OH1AA & A.NOTURR .... APPMJLANTS (Original Aced, persons) VERSUS: THERE:PUBI1IC ..... RESPONDE1'TT (Oninal• Prosecutor) CHARGE: Assault causing actual bodily harm c/s. 241 of the Penal Code.

## JUDGEMENT.

HEI-4aNDY. J. Orwa and Liasianyi were jointly charged with and convicted of assault causing actual bodily harm contrary to section 241 of the Penal Code Cap. 16.. Onvaa was fined ales. 600/= or inprisonnent for 6 months in default. He did not pay the fine. Liasianyi was sentenced to imprisoront for 9 months. They appealed against their convictions and sentences. Both apollants were not present at the hearing of their. appeals, as they indicated that they did not wish to be present. The respondent Republic was represented by the learned State Attorney Lir. Llilinyi. During the evening of the 5th of May, 1972, the complainant (PW1), Audar (P12) and others, were gathered at one of their houses. They were preparing their evening meals, and, in the course of their conversation, they beaxi to talk about the two appellants who were not only unnploied in the village but they : sponged on them f or their food and it appears that this displeased them. Iiasianyi overheard the conversation and asked the complainant to.confirm if he was the one complained of as well, and the complainant did so. This annoyed him, wherefore he entered his house and came out with 4 sticks which lie threw one after the other at the complaiiont. As the complainant was running away Masianyi called help of Orwaawho responded and .both of then be abound the complainant with stick b1ows Both appellants denied the allegation, but the trial court found that they did take part in the assault of the complainant, and caused the complainant to suffer cctual bodily harm. Ii their petitions for appeal, both appellants reiterated that they did not do it, and that Masian.yi was tho victim of the joint assault by . 7 people while Orwaa had just gone to help to stop the fighting. The appellants were, thercfot'e, disputing the findings of facts made by the trial court. However, having regard to the evidence and the conditions of visibility, I sec. no reason to doubt the accuracy of the findings of the trial court. The trial court hoard the evidence was entitled to hold as it did.. :As for the sentences, th?y were roasonable.

- . . Order: As a result, theoe appeals are dismissed in toto. Delivered in court, at Mwanza ? on the 20th day of July, 1973. TU (z. N. JUDGE. 20/7/73. Appe11ait - L. P. Ntabaye— State Attoey for Republic. p ., -p

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